

CALIFORNIA COASTAL COMMISSION

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

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49 th Day:	10/21/2003
Staff:	LO-SC
Staff Report:	9/17/2003
Hearing Date:	10/10/2003

Staff Report: Appeal Substantial Issue Determination

Application numberA-3-MCO-03-090, Ryter

Applicant.....Stephen L. Ryter c/o Snow Consulting

AppellantsCommissioners Reilly and Wan

Project location.....30990 Aurora Del Mar, Otter Cove area, Big Sur Coast (Monterey County) (APN 243-241-014).

Project descriptionConstruct a split-level residence (6,000 sq. ft. total including the attached three-car garage; estimated footprint over 4,000 sq. ft.); also, 1,800 sq. ft. of patio area, a septic system, and grading (1,050 cubic yards cut/300 cubic yards fill), on a vacant 2.7 acre parcel; and reduce the minimum coastal bluff edge set back from 50 feet to 30 feet.

Local approval.....The Monterey County Planning Commission approved a Combined Development Permit, Resolution 03040 (PLN020444), for the project on August 6, 2003.

File documents.....Monterey County certified Local Coastal Program; Final Local Action Notice 3-MCO-03-337; documents and materials from the local record provided by Monterey County on July 22, 2003; Big Sur Coast Land Use Plan.

Staff recommendation ...Substantial Issue

I. Recommended Findings and Declarations for Substantial Issue:

Monterey County approved a Coastal Development Permit for the construction of a 6,000 square foot, two-story residence with associated grading and paving, between Highway 1 and the sea at the northern end of the Big Sur Coast area (project location and plans attached as Exhibit 1). The project has been appealed to the Coastal Commission on the basis that it is inconsistent with a substantial number of different policies and implementing ordinances of the Monterey County Local Coastal Program (LCP), as well as the Coastal Act's public access policies. The submitted reasons for appeal are attached to this report as Exhibit 2.

Staff recommends that the Commission determine that the appeal raises a **substantial issue** regarding the project's conformance to the Monterey County certified LCP, including the Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan (CIP), and the applicable Coastal Act public access policies.



California Coastal Commission
October 10, 2003 Meeting in Coronado

Staff: L. Otter Approved by: *DL*

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In particular, the following LCP conflicts and issues are highlighted as raising a substantial issue:

- 1) **Scenic views.** The Big Sur Coast LUP visual resource Key Policy section 3.2.1 generally prohibits new development visible from Highway 1. However, special standards have been adopted for the Otter Cove area that allow residential use on existing lots *if* measures are incorporated to insure that visual impacts are *minimized* and do not block ocean vistas as seen from Highway 1 (LUP 3.2.5.G). Modifications for siting, design, size and access are required where needed to insure that new development be designed to blend in with, and be subordinate to, the natural environment (LUP 3.2.4.A.3). Building sites are required to be selected so as to avoid the construction of visible access roads (LUP 3.2.4.A.5). Dedication of a scenic easement over the undeveloped portion of the lot is required (LUP 3.2.5.G, and CIP Section 20.145.030.B.7.e).

The project's size and visually prominent location conflict with the LCP's visual resource protection policies. As designed and located, bluewater views as seen from Highway 1 will be directly blocked. The proposed structure is far too large to blend in with, and be subordinate to the natural environment. Also, the associated paved surfaces, including a long entrance drive in a highly visible location and extensive patio areas, are excessive. Therefore, the project clearly is *not* consistent with the LCP standard.

The County applied 20 conditions of approval, but these will not result in the modifications needed to conform with LUP policies. (County Findings and Conditions of Approval attached as Exhibit 3.) Although there is no separate condition to require the dedication of a scenic easement, through reference to the project's "Mitigation Monitoring and/or Reporting Plan" the County did require a scenic easement on part of the lot. But, paradoxically, it only covers the *least* visible portions of the lot and will not preclude future expansion of the proposed residence. Therefore, the County's action is not consistent with the LUP requirement to dedicate a scenic easement over the unbuilt portions of the lot. Accordingly, a substantial issue of LCP conformance is raised.

Alternatives are available for minimizing impacts on Highway 1 views, including a substantial reduction in size, and alternative siting on the lot. For example, an alternative residence design of perhaps 2000 square feet, only one story in height, with no additional entry drive required, appears feasible if the septic system is completely reconfigured and downsized proportionately. A location on the north side of the arroyo would also serve to better cluster the new home with the existing homes in the Otter Cove Subdivision, thereby reducing visual impacts on the view from Highway 1 to the sea. A side yard setback variance may be appropriate for better achieving this goal.

The presence of larger houses (including applicant's previously-approved house) on nearby lots does not confer any inherent right for another large-scale residence on this highly visible parcel.



- 2) **Hazard avoidance.** The LCP's Big Sur Coast policies require that blufftop setbacks "shall be adequate to avoid the need for seawalls during the development's economic lifespan." (LUP 3.9.1.1). Also, the development must not create a geologic hazard or diminish the stability of the area (LUP 3.7.3.A.9).

Geologic and geotechnical investigations have been prepared for this site. These reports confirm that the site comprises a layer of coastal terrace alluvium perched on granite bedrock, and that the rate of shoreline retreat has been historically modest. However, unanticipated events can and will occur. For example, applicant's similarly-situated house on the adjacent lot was sited too close to the seaward edge of the coastal bluff, and after the 1998 El Niño season had to be retrofitted with a seawall after the project was built. Also, as experience has shown, a project's septic, drainage, and irrigation systems can saturate the bluff and diminish the stability of the site.

One way to reduce the risk of such failure is to maximize the distance from the bluff edge. However, instead of maximizing the setback distance, the County allowed a reduction of the required minimum coastal bluff edge setback from 50 feet to 30 feet.

Total impervious surface coverage, including roof areas, paving, stone patios and walls was cited as 12,470 sq. ft. But, the County's approval did not require applicant to reduce this excessive area of impervious surface as a means of reducing saturation, runoff and erosion impacts (i.e., through reduced roof, driveway and patio coverage). And, only partial measures are provided to address the effects of saturation by landscape irrigation. Although the building site on the north side of the arroyo appears in many respects to better meet LCP requirements, detailed geologic and geotechnical analysis focuses only on applicant's preferred site on the south side of the arroyo, at the seaward margin of the coastal terrace. Accordingly, the provided information can not be considered complete enough to conform with LCP standards, nor does it provide the County with the necessary data to evaluate alternative project sizing, design and siting. A substantial issue of LCP conformance is raised accordingly.

- 3) **Public access.** Coastal Act section 30212 (a) provides: "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects..." The LCP's public access key policy for the Big Sur Coast (LUP 6.1.3) states: "The rights of access to the shoreline, public lands, and along the coast, and opportunities for public hiking access, shall be protected, encouraged and enhanced." Opportunities for blufftop and lateral access are required to be protected for long-term public use (LUP 6.1.4.5). And, dedication of public access easements or offers thereof are required "...for all locations fronting the shoreline as a condition of new development..." (LUP 6.1.5.B.2)

The proposed development is located between the first public road and the sea; and, an existing recorded easement provides State Park administrative access rights along an abandoned segment of the old Coast Road across applicant's properties, seaward of the



modern Highway 1 alignment. (See Exhibit 4, attached.) The southern segment of this recorded easement spans the distance between a long Highway 1 pullout (east of the Otter Cove Subdivision) and the northern limit of the Garrapata State Park shoreline, crossing applicant's intervening parcels. This potential blufftop public access alignment is shown on the Trails Plan (Figure 3) in the Big Sur Coast LUP. While not presently maintained or signed for public use, the existing easement in favor of the downcoast landowner (State Parks) could be modified to clearly allow such use; and, is highly suitable for both a California Coastal Trail link and access to nearby blufftop overlooks within the State Park.

Further utilization of the abandoned public roadbed for private residential purposes will tend to prejudice future efforts to secure public hiking rights in at least part of the existing State Parks easement. Conversion to paved residential driveway, fencing, gates and signs accessory to residential development will further discourage public use.

To the extent that residential development of this vacant parcel would impair public access opportunities, recordation of an offer to broaden the terms of the existing easement to general pedestrian use would appropriately mitigate any such impact. However, the County's approval lacks the required offer of dedication. Nor, does it require that the existing easement be broadened to clearly allow public hiking use. Without such public access provision, or its functional equivalent, the project raises a substantial issue of conformance with the applicable Coastal Act and LCP public access policies.

4) Environmentally sensitive habitat areas. The project's Biological Assessment report notes the presence of a plant species—Dune buckwheat—that is an indicator for environmentally sensitive habitat. Coastal scrub, coastal prairie, and the marine and rocky near-shore habitats found on the parcel are environmentally sensitive as well.

The LCP gives high priority to the protection of the Big Sur Coast's environmentally sensitive habitat areas. For example, new development must be sited and designed to avoid disturbance of coastal grasslands (LUP 3.3.3.A.7). Siting and design of development on parcels adjacent to intertidal habitat areas is subject to LUP Policy 3.3.3.B.1, regarding septic system percolation and sedimentation impacts. And, LUP Policy 3.3.2.3 states: "The County shall require deed restrictions or dedications of permanent conservation easements in environmentally sensitive habitats when new development is proposed on parcels containing such habitats."

The project will remove coastal scrub and coastal prairie habitat—and, has the potential to disrupt sensitive marine habitats adjacent to the site. As noted above, the impervious surface area of the development is shown as exceeding 12,000 sq. ft.; and, conditions for operation of the septic system, very near the bluff edge over a granitic formation, are not ideal. Viewed from the sea, seepages and "springs" are evident in the bluff face, downslope from residential septic systems. Available mitigation measures include a



substantial reduction in site coverage, proportional reduction of septic system size, use of a pumped sewage system to relocate the septic system farther away from the bluff edge, and/or resiting the residence to a location at the parcel's northern boundary that would better cluster development adjacent to the existing Otter Cove Subdivision.

The County did not require any of these design modification measures to protect the natural habitats on and adjacent to the site. The coastal permit conditions did not directly include protection of the undeveloped portion of the property within a conservation easement, nor in a deed restriction enforceable by the County. However, through reference to the project's "Mitigation Monitoring and/or Reporting Plan" the County did require a scenic easement on part of the lot. But, the LUP requirement is not met because only a part of the undeveloped lot area is included. Therefore, the proposed development raises the issue of conformance with LCP Environmentally Sensitive Habitat Area protection policies.

5) Water quality protection. As cited above, the location and design of development on parcels adjacent to intertidal habitat areas is subject to LUP Policy 3.3.3.B.1. The purpose of this policy is to avoid septic system percolation and sedimentation impacts. The proposed building site is on shallow coastal terrace colluvium over granite bedrock. Storm water runoff and septic system leachates from the development have the potential to adversely impact adjoining tidepools and rocky intertidal habitats that are part of the Monterey Bay National Marine Sanctuary.

Alternative sites and designs that would reduce the potential for sediments and septic system leachates were not pursued. A substantial issue of conformance with the LCP's water quality protection policies is raised accordingly.

Additional information: In addition to the LCP and Coastal Act inconsistencies highlighted above, the appeal also cites County staff testimony concerning applicant's offer to conserve this site as open space (pursuant to previous development approved on the adjacent parcel). The question is relevant because the project conflicts with the terms under which Monterey County and the Coastal Commission (by not taking appeal jurisdiction over the project) approved development of the adjacent parcel.

In particular, a County Staff Member, speaking at the Commission hearing on the appeal of this earlier project (A-3-MCO-94-09) in April of 1994, represented to the Commission that the site would never be developed because "*the Ryters are dedicating one of the parcels in open space for free.*" (Testimony of Paul Tran, County Planner, Official Transcript of Commission Hearing, April 12, 1994, page 28, lines 13- 15). The Commission thus understood that this parcel would not be developed and went on to find that the county approval of a residence on the applicant's neighboring parcel raised no substantial issue.



Applicant's attorney, in correspondence dated June 26, 2003 confirms this offer, along with an explanation: "The Ryters had previously expressed the intention of leaving [this] lot as open space, but due to economic impacts of the extraordinary cost of developing their existing home, including three years of litigation, Coastal Commission appeals and an arson fire...this is no longer an option." Nonetheless, as noted in the Reasons for Appeal, if the parcel "...should be in open space based on this earlier project approval, then clearly any new construction on the site would be inappropriate."

II. Recommended Motion and Resolution

MOTION:

I move that the Commission determine that Appeal No. A-3-MCO-03-090 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-MCO-03-090 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. Appeal Procedures:

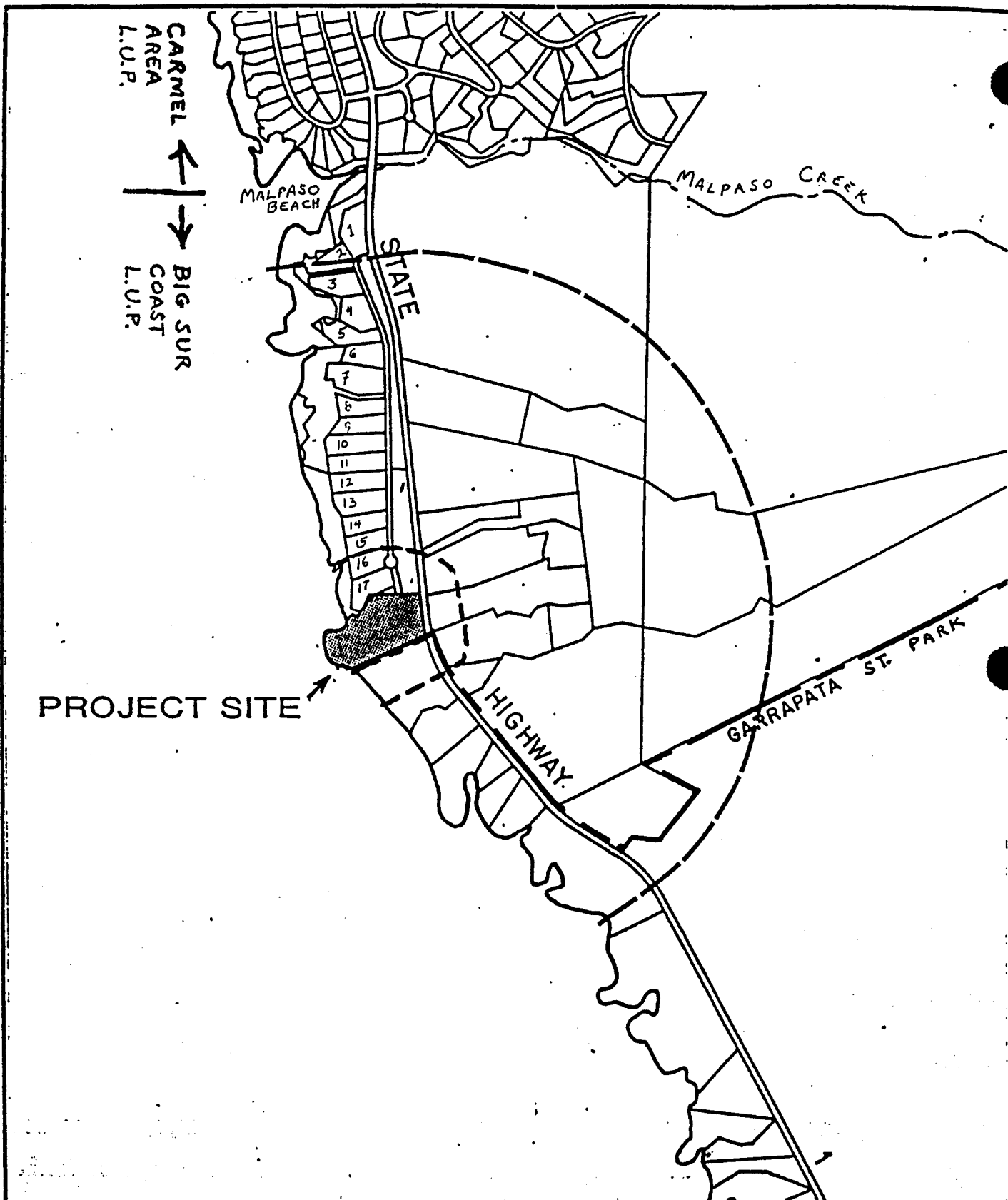
Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable to the Coastal Commission because it is located between the first public road and the sea; and, because it is within 30 feet from the edge of the coastal bluff.



The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the first public road and the sea and thus, this additional finding would need to be made in a *de novo* review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the *de novo* stage of an appeal.





PROJECT SITE

APPLICANT: CAMPBELL

APN: 243-241-013-000

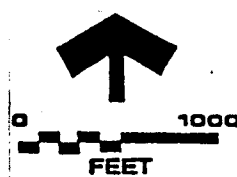
300' LIMIT

2,500' LIMIT

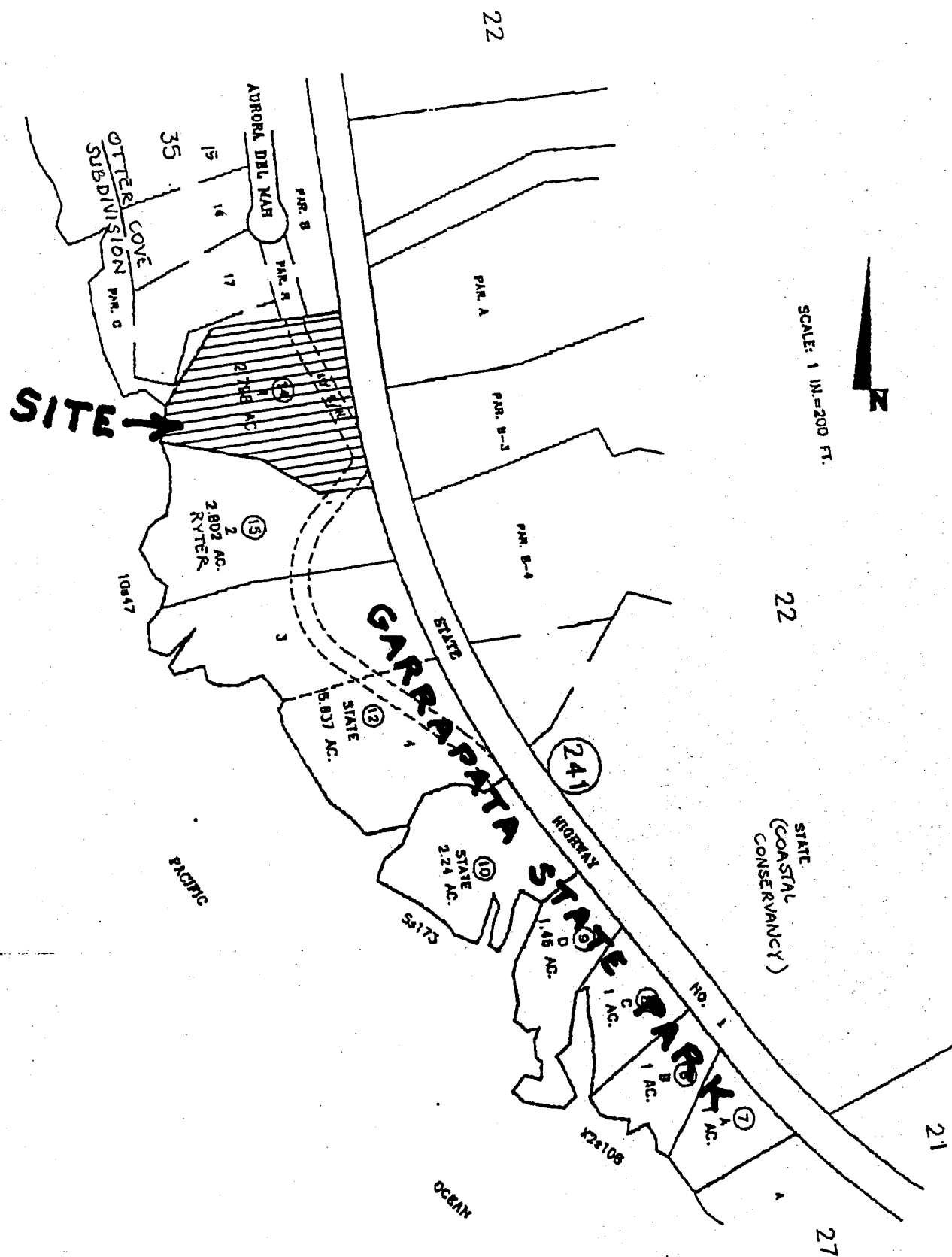
EXHIBIT NO. 1

APPLICATION NO.
A-3-MCO-03-090

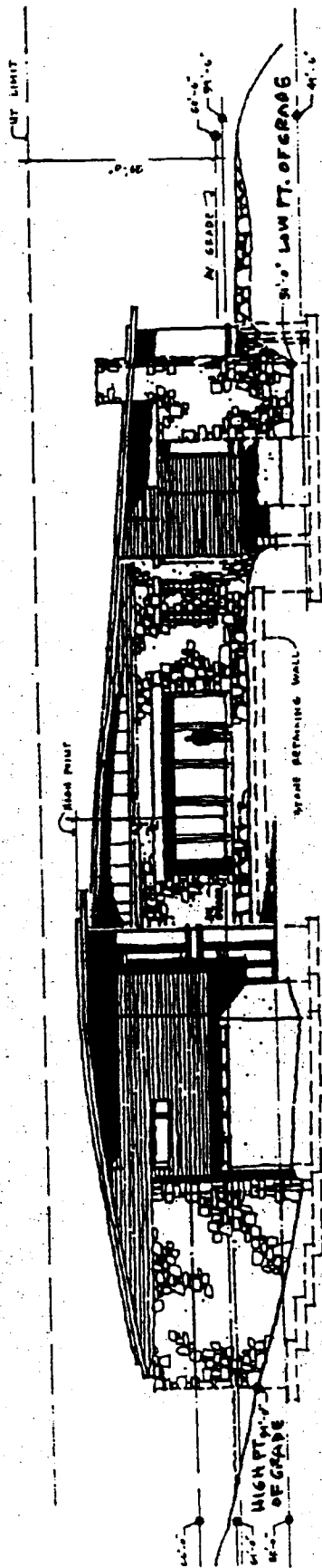
RYTER: PROJECT
LOCATION & PLANS



DATE: 12/16/93

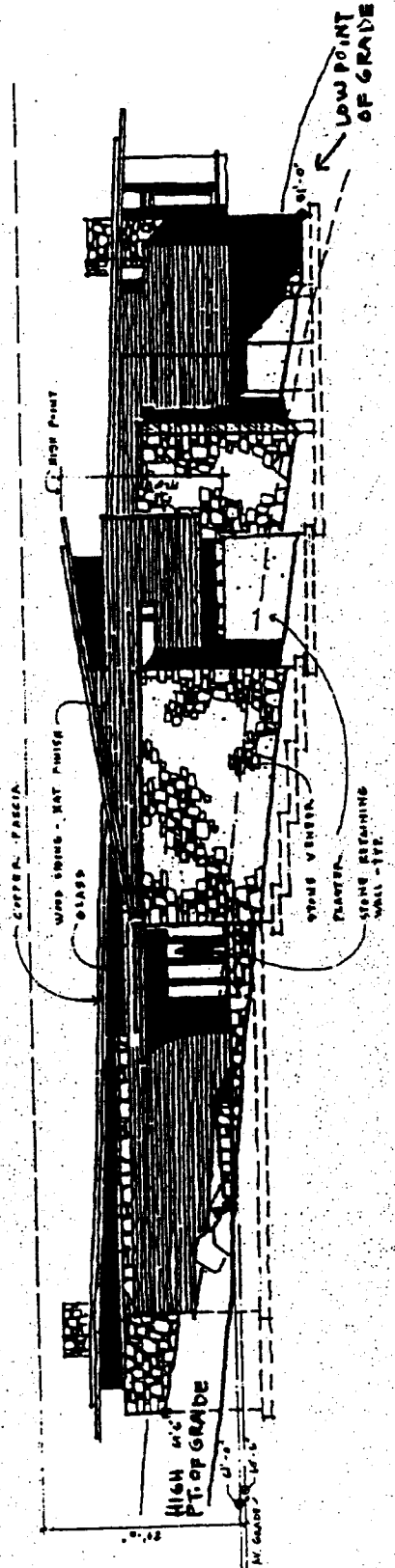


Map 2. Project Location.



NORTH ELEVATION

Scale: 1/8"=1'-0"



EAST ELEVATION

Scale: 1/8"=1'-0"

Reasons for Appeal of Monterey County Coastal Development Permit PLN020444

Monterey County's approval of a coastal development permit to allow the construction of a two-story, 6,000 square foot single family residence with an attached three car garage, 1,800 square feet of patio area, a septic system, and grading, in the Otter Cove area of Big Sur, is inconsistent with the Monterey County certified Local Coastal Program for the following reasons:

1. Inconsistencies with LCP Scenic Resource Protection Provisions

The project, located between Highway One and the sea, will be visible from the Highway and has not been sited and designed to minimize impacts to the viewshed as required by the LCP. Both the size of the home, and it's visually prominent location, are in conflict with Policies 3.2.5.G regarding development in the Otter Cove area, and 3.2.4, requiring new development to blend in with, and be subordinate to, the natural environment. In addition, the excessive extent of impervious surfacing conflicts with Section 20.145.030.B.7 of the Coastal Implementation Plan, requiring paving to be minimized. Finally, it is not clear that all areas outside of the development will be placed within a scenic conservation easement, as required by CIP Section 20.145.030.B7.e.

2. Inconsistencies with LCP Hazard Avoidance Requirements


The project will be located within 30 feet of the coastal bluff and within 2 feet of an arroyo. These setbacks may not be adequate to avoid the need for a seawall, as required by Policy 3.9.1.1, and do not ensure that the stability of the site and the surrounding area will be maintained, as required by 3.7.3.A.9. The potential for the project's septic, drainage, and irrigation systems to diminish the stability of the site also call into question the project's conformance to these policies.

3. Inconsistencies with LCP and Coastal Act Public Access Policies

The proposed development is located between the first public road and the sea, and must comply with the public access policies of both the LCP and the Coastal Act. An existing State Parks easement for administrative access that traverses the property could serve as a potential location for the California Coastal Trail between Highway 1 (starting at the south end of the Otter Cove Subdivision) and Garrapata State Park, as shown on the Trails Plan (Figure 3) in the Big Sur Coast LUP. This is also the best location for access to the blufftop overlook at the north boundary of Garrapata State Park. The proposed development would compromise this potential shoreline access link, and is therefore inconsistent with Coastal Act and LCP public access policies.

4. Inconsistencies with LCP Environmentally Sensitive Habitat Area Protections

The proposed development will remove coastal scrub and coastal prairie habitat, and has the potential to disrupt sensitive marine habitats adjacent to the site. The extent of site disturbance associated with the project, and the ongoing impacts to these habitat areas


EXHIBIT NO. 2
APPLICATION NO. A-3-MCO-03-090
RYTER: REASONS FOR APPEAL
 California Coastal Commission

from noise, lighting, drainage, and human activity, raise conflict with LCP policies protecting these natural resource areas. Furthermore, it is not clear that all sensitive habitat areas of the site will be placed in conservation easements, as required by LUP Policy 3.3.2.3.

5. Inconsistencies with LCP Water Quality Protection Provisions

Storm water runoff and septic system leachates from the development have the potential to adversely impact adjoining tidepools and rocky intertidal habitats that are part of the Monterey Bay National Marine Sanctuary. This is particularly of concern given the proximity of the proposed leach field to the bluff and the arroyo, and geologic characteristics that are unfavorable for effective leach field percolation. As required by LUP Policy 3.3.B.1, alternative project sites and designs that would avoid and minimize the potential for sediments and septic system leachates to be discharged to the marine environment must be pursued.

In addition to the LCP inconsistencies identified above, the project conflicts with the terms under which Monterey County and the Coastal Commission (by not taking appeal jurisdiction over the project) approved development of the adjacent parcel. During the Coastal Commission's public hearing on an appeal of that project, Monterey County staff testified that the applicant was going to conserve the subject site as open space. Neither the applicant nor his representative refuted this testimony at the hearing.

EXHIBIT NO. 3
APPLICATION NO. A-3-MCO-03-090
COUNTY FINDINGS & CONDITIONS
 California Coastal Commission

Appealed - see A-3-MCO-03-090

RECEIVED

AUG 19 2003

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

PLANNING COMMISSION

COUNTY OF MONTEREY, STATE OF CALIFORNIA

ACTION NOTICE

REFERENCE # 3-MCO-03-337

APPEAL PERIOD 8/20-9/3/03

RESOLUTION NO. 03040

A. P. # 243-241-014-000

FINDINGS AND DECISION

In the matter of the application of
Stephen L. Ryter TR (PLN020444)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located at 30990 Aurora Del Mar, Carmel within the Otter Cove Exemption Area between Highway 1 and the Coast Line, Big Sur Area, Coastal Zone, came on regularly for hearing before the Planning Commission on July 30, 2003.

WHEREAS: Said proposal includes:

- 1) Coastal Administrative Permit and Design Approval for construction of a two-story, 6,000 square foot single family residence with an attached three-car garage, 1,800 square feet of patio area and a septic system and grading (1,050 cubic yards cut/300 cubic yards of fill); and
- 2) Coastal Development Permit to reduce the minimum coastal bluff edge set back from 50 feet to 30 feet

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING – CONSISTENT WITH PLAN/POLICIES:** The subject Combined Development Permit (PLN020444/Ryter) conforms to the plans, policies, requirements and standards of the Big Sur Coast Land Use Plan and the Monterey County Coastal Implementation Plan, Part 3 (Chapter 20.145 MCC).

EVIDENCE:

(a) **Land Use.** The subject site is located within a "WSC/40-D(CZ)" or Watershed Scenic Conservation zoning district in the coastal zone.

(b) **Project Description.** The project proposed in this application (PLN020444-Ryter) consists of obtaining the necessary approvals to construct a 2-story, 6,000 square foot single family residence with an attached 3-car garage, 1,800 square feet of patio area and a septic system and grading (1,050 cubic yards cut/300 cubic yards fill); and reduce the minimum coastal bluff edge set back from 50-feet to 30-feet. The project site is approximately 2.77 acres in size and the zoning designation requires a minimum of 40 acres for parcels in this district.

(c) **Legal Lot.** The Planning Commission finds that the subject lot is a legal lot of record as a result of the Campbell 4-lot subdivision that was approved by the County and recorded by the owner.

(d) **Plan Conformance.** The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- 1) Big Sur Coast Land Use Plan (BSLUP).
- 2) Chapter 20.145 of the Monterey County Coastal Implementation Plan.

With the recommended conditions, there would be no conflict or inconsistencies with the regulations of these plans or policies.

(e) **Precedence.** Monterey County Planning and Building Inspection Case number PC 93127. California Coastal Commission appeal case A-3-MCO-94-09 (dated April 18, 1994). San Francisco.

EX. 3

County Superior Court case No. 961621, filed March 28, 1995. Court of Appeal of the State of California, First Appellate District, Division One case number A070286 (filed May 8, 1996).

(f) **Otter Cove Exemption.** Although the key policy would prohibit development that is visible from Highway 1, Section 3.2.4.G of the Land Use Plan (LUP) provides an exemption to this policy for the "Otter Cove Area" and Section 20.145.030.B.7 of the Coastal Implementation Plan (CIP) establishes standards for how development can be approved in the exemption area. In 1994, the State Appellate Court ruled that Lots 1 (subject lot) & 2 of the Campbell subdivision are part of the "Otter Cove Exemption" area.

(g) **Visual Resources.** The project is consistent with policies of the Big Sur Coastal Implementation Plan (BS CIP) dealing with visual resources and will have no significant impact on the critical viewshed from Highway 1 (Section 20.145.030 BS CIP). In May 1991, the Board of Supervisors adopted language that land in Otter Cove shall be permitted to be used for residential purposes subject to policies of Section 3.2.4 of the Big Sur Land Use Plan (development standards for home not in the critical viewshed). This policy was changed with the Board finding that "*Otter Cove is too far committed to residential buildout to make strict application of a non-visibility policy worthwhile*". The project meets the criteria in Section 3.2.4 BSLUP as follows:

1. *Design and siting of structures shall not detract from undeveloped skylines, ridgelines, and the shoreline.* The proposed configuration is designed to follow the contour of the coastal bluff and avoid alteration to significant natural landforms or removal of any trees. Proposed materials, color and textures including copper clad shingles, rock, and wood siding blend with the reddish-brown and blue-green colors of the coastal scrub and ocean so that the structure does not conflict and therefore detract from the coastline view.
2. *Least visible portion of parcel will be considered the appropriate site for new structures. Structures and access are to avoid alteration to natural landform and avoid removal of healthy tree cover.* The site includes one other alternative area for a possible home site. This site is located north of the arroyo and closer to Highway One. Staking of this potential building site area determined that even with a reduced size house this area has similar impacts to the critical viewshed as the proposed home site. In addition, the usable area would limit access/parking and only allow a very small home to be developed compared to those other homes in the area. Therefore, a home of similar or lesser size compared to the proposed home cannot be located outside of the critical viewshed to a less visible portion of the site without comparable impacts to the critical viewshed. Finally, the project is designed to avoid alteration of natural landforms and no tree cover is proposed for removal.
3. *Design structures that are subordinate and blend with the environment (colors, materials, textures, shape, size, access, and screening).* As conditioned, the proposed materials provide color and texture that blends with the environment. The project proposes to use copper clad shingles, rock, and wood siding to blend with the reddish-brown and blue-green colors of the coastal scrub and ocean. A condition requires planting and maintenance of landscaping to screen the structure without obscuring any views beyond the proposed structure. The proposed home is similar in size to existing approved homes in this area and leaves adequate area of the lot that will be preserved in a scenic conservation easement.
4. *Moderate screening may be used wherever a moderate extension of native forested and chaparral areas is possible.* A number of Monterey Pines were planted as part of the required screening efforts for the prior homes built in Otter Cove. These trees have grown to block more view than the structures. There is no native forest in the proposed area. Although these trees are indigenous to the area, they are not considered native and should not be extended as a native forest.

5. *Sites shall be selected to avoid visible access roads to minimize engineering and environmental impacts of road construction.* To provide consistency with these criteria, a condition requires the project be limited to three guest spaces in a manner that reduces/eliminates retaining walls and that the driveway and parking areas be constructed with dark colored materials such as pavers or asphalt. The width of the driveway has been designed as narrow as possible.
 6. *New roads are allowed only when use of an existing road is not available.* Adequate access roads exist to the site so no new roads are necessary or proposed.
 7. *New roads shall avoid steep slopes and shall be located along margins of forested area, along natural land contours, or within existing vegetation. Drainage and erosion control must be adequate to avoid erosion.* Geology and geotechnical reports for the subject property conclude that construction of a residence on the subject site would be geologically acceptable provided that recommendations noted in these reports are included.
 8. *Television antennae shall be unobtrusive.* Staff has included a condition to assure that no antennae are visible in the critical viewshed.
- (h) **Archaeology.** As conditioned, the project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development in archaeologically sensitive areas (Section 20.145.120 BS CIP). County resource maps identify this area to be highly sensitive to archaeology finds. A final report of archaeological investigations for development of the site immediately south (APN: 234-241-013-000) by Archaeology Consulting, dated September 17, 1994, was submitted for this project. Staff contacted with the archaeological consulting firm in December 2002 and was informed that they felt this report would be adequate to address the conditions of the subject site (APN: 234-241-014-000). The applicant also submitted a letter supporting this information dated June 17, 2003 and recommends standard condition language for a qualified archaeologist to monitor grading. This condition has been incorporated.
- (i) **Environmentally Sensitive Habitat.** As conditioned, the proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development adjacent to environmentally sensitive habitats (Section 20.145.040 BS CIP). The building site consists of coastal bluff scrub that is dominated by poison oak, giant wild rye, lizard tail and hottentot fig. As conditioned, the proposed project would not pose any threat to any listed rare or sensitive plants communities. A Biological Assessment for the subject site was prepared by Dale Hameister from Rana Creek Restoration on July 9, 2002 and revised December 9, 2002 and April 8, 2003. This assessment included review of databases and a field survey on June 27, 2002. An addendum in response to Coastal Commission comments, dated June 24, 2003, includes recommended conditions that have been incorporated.
- (j) **Geologic Hazards.** The proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development in hazardous areas (Section 20.145.080 BS CIP). The site is located in a hazardous geologic zone according to Resource Maps, of the Monterey County Big Sur Coast Land Use Plan. Rogers E. Johnson and Associates prepared a Geological Investigation report (dated October 8, 2002) for the subject property to determine general geologic conditions on the subject property and address geologic policies of the Monterey County Coastal Implementation Plan consistent with "Guidelines for Geologic/Seismic Reports" of the California Divisions of Mines and Geology. Haro, Kasunich and Associates, Incorporated prepared a Geotechnical Investigation (dated October 2002) to explore and evaluate surface and subsurface soil conditions of the site in order to provide recommendations for construction design. These reports conclude that construction of a residence as proposed with a 30-foot bluff top set back would be geologically acceptable provided that recommendations noted in these reports are included. Addendum letters from Rogers Johnson and Haro, Kasunich & Associates (dated February 6, 2003 and June 25, 2003) further clarify this information and recommend additional conditions. All recommended conditions have been incorporated.

(k) **Field Trip.** On June 4, 2003, staff along with five members of the Monterey County Planning Commission conducted a field trip that visited the subject site. This field trip involved walking the site to review the staking to determine impacts to views from Highway One. Staking of the alternative site was also installed for review at this time.

(l) **LUAC.** On November 12, 2002, the Big Sur Coast Land Use Advisory Committee voted 5-1-1 to recommend approval of the project. The Committee generally found that the applicant had met all requirements, but expressed concern for landscape that could grow to block public views of the coastline from Highway 1. This has been addressed as a condition of approval.

2. **FINDING – COMPLY WITH REGULATIONS:** The proposed Combined Development Permit PLN020444/Ryter complies with all applicable requirements of Title 20 of Monterey County Codes.

EVIDENCE:

(a) **Materials** in project file PLN020444/Ryter.

(b) **Codes.** The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

1) Chapter 20.17 of the Monterey County Zoning Ordinance relative to regulations for the Watershed Scenic Conservation "WSC/40-D(CZ)" district in the coastal zone.

2) Chapter 20.44 of the Monterey County Zoning Ordinance relative to Design Approval.

The project, as conditioned, would have no conflict or inconsistencies with the regulations of these plans or policies.

(c) **Zoning.** The subject site is located within the "WSC/40-D(CZ)" or Watershed & Scenic Conservation (40 acre minimum) and Design Control zoning district in the Coastal Zone.

(d) **Site Description.** The project site is 2.77 acres in size and the zoning designation requires a minimum of 40 acres for parcels in this district. The parcel was created as part of the Campbell Subdivision and is a legal lot of record.

(e) **Permits.** The WSC zone allows administrative review of Coastal Administrative Permits for the first single family home on a legal lot of record (Section 20.17.040 MCC), unless combined with a permit that requires review by the Planning Commission (Section 20.82.030 MCC). The WSC zone authorizes the Planning Commission to consider Coastal Development Permits for development within 50 feet of a coastal bluff edge (Section 20.17.030 MCC).

(f) **Development Standards.** As conditioned, the project meets all set back (30 front/20 sides/20 rear) and height (24) requirements for a main structure in the WSC zone. There are no trees located within the building area.

(g) **No Violation.** Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist on the property and that all zoning abatement costs, if any have been paid.

(h) **Professional Reports.** The project Archaeologist, Biologist, Geologist, and Engineer have reviewed the site. Findings and recommendations from the reports prepared by these professionals have been incorporated into the analysis and conditions for restoration and impact mitigation.

3. **FINDING – SITE SUITABILITY:** The site is physically suitable for the proposed use.

EVIDENCE:

(a) **Site Inspection.** The project planner conducted an on-site inspection on November 1, 2002. In addition, the Planning Commission conducted a field visit on June 4, 2003. The proposed improvements will not present an unsightly appearance, impair the desirability of residences in the same area, limit the opportunity to obtain the optimum use and value of land improvements or impair the desirability of living conditions of the same or adjacent area.

(b) **Agency Review.** The project has been reviewed by the Monterey County Planning and Building

Inspection Department, Water Resources Agency, Public Works Department, Carmel Highlands Fire Department, Parks Department, and Environmental Health Department. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated to the project conditions.

(c) **Professional Reports.** Reports by a certified Archaeologist, Biologist, Geologist, and Engineer indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the proposed use.

4. **FINDING – CONDITIONS OF APPROVAL:** The conditions of approval comply with the provisions of Title 20, Chapter 20.145.

EVIDENCE:

(a) The conditions are based on the recommendations of the Carmel Highlands Fire Department, Monterey County Water Resources Agency, Monterey County Environmental Health Division and Monterey County Department of Public Works. The conditions incorporate the concerns and recommendations of those various agencies. Additional conditions are required for approval in order to assure that the proposed use and site amenities are compatible with other developments in the area.

5. **FINDING – CEQA/MITIGATED NEGATIVE DECLARATION:** On the basis of the whole record before the Zoning Administrator there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

EVIDENCE:

(a) **Initial Study.** The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. The Initial Study identified several potentially significant effects, but applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference. (PLN020444/Ryter). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

(b) **Mitigated Negative Declaration.** On April 16, 2003, County staff completed an Initial Study for the project (PLN010331) in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk April 23, 2003, noticed for public review, and circulated to the State Clearinghouse from April 25, 2003 to May 27, 2003 (SCH#: 2003041164). The evidence in the record includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Otter Cove Exemption Litigation. Court of Appeal of the State of California, First Appellate District, Division One, Monterey Peninsula Regional Park District v. California Coastal Commission and Stephen Ryter (A070286). Filed May 8, 1996.
2. Biological Assessment for the Ryter Property (APN 243-241-014-000). Prepared by Dale Hameister, Rana Creek Habitat Restoration. Revised April 8, 2003.

3. Final Report of Archaeological Investigations at Site CA-MNT-1457, on Assessor's Parcel APN 243-241-013-000, Carmel Highlands, Monterey County, California. Prepared by Gary S. Breschini, SOPA and Trudy Haversat, SOPA. September 17, 1994.
4. Geology Investigation, Stephen and Wendy Ryter Property, Lot 1, Otter Cove, Monterey County, APN 243-241-014-000. Prepared by Rogers E. Johnson & Associates (Job # C02029-1137M). Report dated October 8, 2002 with addendum December 4, 2002.
5. Geotechnical Investigation for APN: 243-241-014-000, 30990 Aurora del Mar, Monterey County, California. Prepared by Rick L. Parks (CE55980) with Haro, Kasunich and Associates, incorporated (Project #: M8017). October 2002.
6. Site Photographs by Carl Holm, Project Planner. February 11, 2003.

The Planning Commission determines that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance. Therefore, a Mitigated Negative Declaration is hereby adopted by the Planning Commission.

(c) **Mitigation Monitoring Program.** A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. The applicant/owner must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.

(d) **Comments.** All comments received on the Initial Study have been considered. During the review period, comments were received from the applicant and the California Coastal Commission. The County has considered these comments and has added Condition Nos. 6, 8 and 9 to address the comments received.

(e) **Public Testimony.** The Planning Commission considered public testimony and the initial study at a hearing on July 30, 2003.

6. **FINDING - FISH & GAME FEE:** For purposes of the Fish and Game Code, the project will not have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends.

EVIDENCE:

- (a) **De Minimus Finding.** Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The site supports suitable habitat for the Federally-listed endangered Smith's Blue butterfly. Runoff from the site will drain into the Pacific Ocean. Therefore, this project is not subject to a de minimus exemption and the applicant is required to pay the Fish and Game fee.
- (b) Initial Study and Negative Declaration contained in File No. PLN020444/Ryter.

7. **FINDING -APPEAL:** The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

EVIDENCE:

- (a) **Board of Supervisors.** Section 20.86.030 of the Monterey County Zoning Ordinance.
- (b) **Coastal Commission.** Section 20.86.080 of the Monterey County Zoning Ordinance.

DECISION

It is the decision of the Planning Commission of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The *Combined Development Permit (PLN020444/Ryter) consisting of a Coastal Administrative Permit and Design Approval for construction of a two-story, 6,000 square foot single family residence with an attached three-car garage, 1,800 square feet of patio area and a septic system and grading (1,050 cubic yards cut/300 cubic yards fill); and Coastal Development Permit to reduce the minimum coastal bluff edge set back from 50-feet to 30-feet.* The project is in accordance with County ordinances and land use regulations, and subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to Issuance of a Building and/or Grading Permit

2. The applicant shall record a notice which states: "A Permit (Resolution # 03040) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 243-241-014-000 on July 30, 2003. The permit was granted subject to 20 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and/or Reporting Plan is contained in the staff report as Exhibit "E" and is hereby incorporated herein in its entirety by reference. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(Planning and Building Inspection)**
4. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan. The Plan shall be submitted to the Director of Planning and Building Inspection Department for approval prior to issuance of any building permits. **(Planning and Building Inspection)**
5. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**

Prior to issuance of a grading permit, the applicant shall copy control measures onto the building plans for review and approval of the Planning and Building Inspection Department. The applicant shall also submit a program for how these measures will be implemented during construction activities:

- a. Water all active construction areas at least twice daily. Frequency should be based on the type of operation, soil condition, and wind exposure.
- b. Cover stockpiles of debris, soil, sand or other materials that may be blown by the wind.
- c. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction.
- d. Landscape or cover completed portions of the site as soon as construction is complete in that area.
- e. Silt fencing shall be installed at the edge of the construction area located down-slope of the building area facing the bluff and arroyo.
- f. Any materials found to be spilled or allowed to go over the bluff edge shall constitute a violation subject to a fine of \$1,000 per occurrence plus staff time and materials to enforce said violation.
- g. All grading spoils and construction waste shall be disposed of off-site.
- h. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established.

(Planning and Building Inspection)

7. Final Building Plans shall include the following changes

- a. Windows shall be tinted (as proposed) and non-reflective.
- b. Exterior wall materials shall be limited to the proposed wood siding and stone veneer only. No stucco.
- c. Driveway and parking areas shall be limited to three guest spaces designed in a manner that reduces/eliminates retaining walls along the arroyo.
- d. Driveway and parking areas shall be constructed with dark colored materials such as pavers and/or asphalt.
- e. Retaining walls shall be limited to a maximum of three feet tall (tiered if necessary) along with appropriate native planting along the top and base (Condition 17).
- f. The patio extending into the south side set back shall be modified/removed to meet the required set backs.

Said changes shall be subject to approval of the Director of Planning and Building Inspection.

(Planning and Building Inspection)

8. The applicant shall submit three (3) copies of an exterior lighting plan that addresses the following:

- a. Indicate the location, type, and wattage of all light fixtures including catalog sheets for each fixture for review and approval of the Director of Planning and Building Inspection.
- b. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.
- c. Lighting shall be designed and/or screened (e.g. landscape) whereby it does not create a nuisance, disturb any nearby resident, or disrupt nighttime views from public areas.
- d. A note shall be placed on the lighting plan stating that; "There shall be no night lighting of the shoreline".

(Planning and Building Inspection/Sheriff)

9. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

10. Native trees and vegetation which are located close to the construction site shall be protected from inadvertent damage from construction equipment and personnel by:
 - a. Installing protective fencing around tree driplines;
 - b. Wrapping trunks with protective materials;
 - c. Avoiding fill of any type against the base of tree trunks;
 - d. Avoiding an increase in soil depth at the feeding zone or drip line of the retained trees; and
 - e. Installing protective fencing around the entire building area, except the driveway, to protect coastal bluff.Said protection shall be demonstrated through either photographic evidence or by a site visit by Planning and Building Inspection Department staff. **(Planning and Building Inspection)**
11. The applicant shall submit a detailed disposal system design to the Director of Environmental Health for review and approval meeting the regulations found in Chapter 15.20 of the Monterey County Code, and Prohibitions of the Basin Plan, Regional Water Quality Control Board. **(Environmental Health)**
12. A drainage plan shall be prepared by registered civil engineer or architect addressing on-site and off-site impacts, to include dispersal of impervious surface stormwater runoff onto a non-erodible surface below the bluff. **(Water Resources Agency)**
13. Before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent & temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3-inches with a 3/8-inch stroke, and contrasting with the background colors of the sign. **(Carmel Highlands Fire Protection District)**
14. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roads shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead/"T" is used, the top of the "T" shall be a minimum of 60 feet in length. **(Carmel Highlands Fire Protection District)**

During Grading and/or Construction

15. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
16. A qualified archaeological monitor shall be present during grading, trenching or other soil disturbing activities in the immediate vicinity of cultural resources. 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 150 feet of the find until it can be evaluated, and, if found to be significant, until appropriate mitigation measures are formulated and implemented. **(Planning and Building Inspection)**

Prior to Final Inspection and/or Occupancy

17. All landscaping shall be installed. The site shall be landscaped and maintained as follows:
- At least three weeks prior to occupancy, three copies of both a Landscaping Plan and a Restoration Plan shall be submitted to the Director of Planning and Building Inspection.
 - 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.
 - All areas disturbed by construction shall use native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval.
 - The Restoration Plan shall provide planting and seed collection specifications, protection of dune buckwheat and Monterey Pine with a 25-foot buffer zone, invasive species control, use of native coastal bluff scrub and coastal prairie species with a buffer zone for the sewage disposal system, maintenance and monitoring requirements. Said plan shall also address planting of buffer strips of bunch grasses and other hydric graminoids such as *Juncus* and *Carex* in combination with the drainage system to intercept and filter sediment.
 - Design and maintain landscape in such a manner that does not obscure any coastline view from Highway 1 any more than the proposed structure.
 - All landscaped areas shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.
 - Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department.

(Planning and Building Inspection)

18. All new utility and distribution lines shall be placed underground. **(Planning and Building Inspection)**
19. 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. Rough-in inspections must be completed prior to requesting a framing inspection." **(Carmel Highlands Fire Protection District)**
20. The applicant shall comply with Ordinance No. 3932, 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:
- 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.
 - 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, S.C.)**

PASSED AND ADOPTED this 30th day of July, 2003 by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Parsons, Diehl, Gonzalves, Rochester, Wilmot
NOES: Brennan
ABSENT: None



JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on **AUG 6 2003**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **AUG 18 2003**

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.



PROJECT DATA:

LOT SIZE: 2 PM ACRES (170,000 SQ FT)
CUT: 1,000 CLERIC VARIUS
F.L.L.: 300 CLERIC VARIUS
PERCENTAGE OF LOT
COVERED BY PROPOSED
STRUCTURE: 6000 SF (170,000 SQ FT)
AREA OF PAVING: 4600 SQ FT
AREA OF PATIOS: 1800 SQ FT
PROPOSED TRAFFIC REMOVAL: 2500

**Monterey County Planning & Building Inspection
Condition Compliance & Mitigation Monitoring and/or
Reporting Plan**

Project Name: Ryter Trust – Single Family Home

File No: PLN020444

APNs: 243-241-014-000

Approval by: Planning Commission

Date: July 30, 2003

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. #	Mitigation # from ND/EIR	Condition and Condition #: or Mitigation Measure Number, Category, Text, Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable	Responsible Party for Clearing Condition	Responsible Party for Monitoring Conditions	Monitoring Schedule (Timing)	Verification of Completed or Ongoing Mitigation or of Non- Compliance	Action to Achieve Compliance
	1	In order to avoid potential future impacts to the critical viewshed and sensitive habitat, the applicant shall record an open space and scenic easement across the area north of and including the arroyo plus the area from the bluff edge to the coastline. Said easement shall restrict use of the area for landscaping or development activity.	Record a scenic and open space easement in accordance with Mitigation Measure #1.	Applicant	P&BI	Prior to occupancy		
	2	In order to reduce potential visual impacts from glare or lighting, the applicant shall submit lighting and elevation plans for review and approval by the Director of Planning and Building Inspection.	Submit a Lighting Plan that includes: - Low intensity lighting with 90-degree cut-off shields for all exterior light fixtures. - Limit all light sources to the building site (house, driveway). Landscaping to screen glare from the proposed home.	Applicant/ Engineer	P&BI	Prior to issuance of any building permit		
			Submit final Elevation Plans that include, but not be limited to: - Natural materials with no reflective finishes shall be used in the home exterior.	Applicant	P&BI	Prior to issuance of building permits		

Permit Cond. #	Mitigation # from ND/EIR	Condition and Condition #; or Mitigation Measure Number; Category, Text, Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable	Responsible Party for Clearing Condition	Responsible Party for Monitoring Conditions	Monitoring Schedule (Timing)	Verification of Completed or Ongoing Mitigation or of Non-Compliance	Action to Achieve Compliance
	3	<p>In order to preserve the visual character of the area, the applicant shall submit Landscape Plans prepared by a licensed Landscape Architect that:</p> <ul style="list-style-type: none"> - Identify the location, species and size of the proposed landscaping material. - Include species that are botanically appropriate to the area. - Include maintenance notes for all landscaping materials. Landscape materials shall be a species, or maintained in such a manner, that limits the size so that it does not exceed the approved height and bulk of the residence. - Identify all existing trees within the project area in accordance with Mitigation Measure #5. - Provide a mix of mature plants and species to screen or soften the visual impact of new development. - Provide notes on the plans to eradicate invasive vegetation for areas on or near the project area (per Mitigation Measure #9). - Leach field areas shall be planted with herbaceous, shallow rooted plants that are not excessively water loving. Coordination with grading plans/recommendations to help prevent future sloughing of the upper cliff face (Mitigation Measure #9). 	Submit a Landscape and Irrigation Plan, with the required review fee.	Applicant	P&BI	At least three weeks prior to occupancy		
			<p>Maintain landscaping materials within the limits of the approved height and bulk of the residence.</p> <p>Failure to comply within 30 days of notice from an authorized County representative shall result in a code enforcement action recorded against the property.</p>	Applicant	P&BI	On-going		
	4	<p>In order to assure no incidental taking of the Smith's blue butterfly, the developer shall:</p> <p>a. No grading (i.e. brush clearing, grading) may occur between June 1st and August 15th, unless a qualified biologist confirms that the Smith's blue butterfly flight season has ended.</p>	Provide a report that certifies the proper mitigation for the Smith's blue butterfly has been implemented in accordance with Mitigation Measure #4.	Biologist	P&BI	Prior to grading		

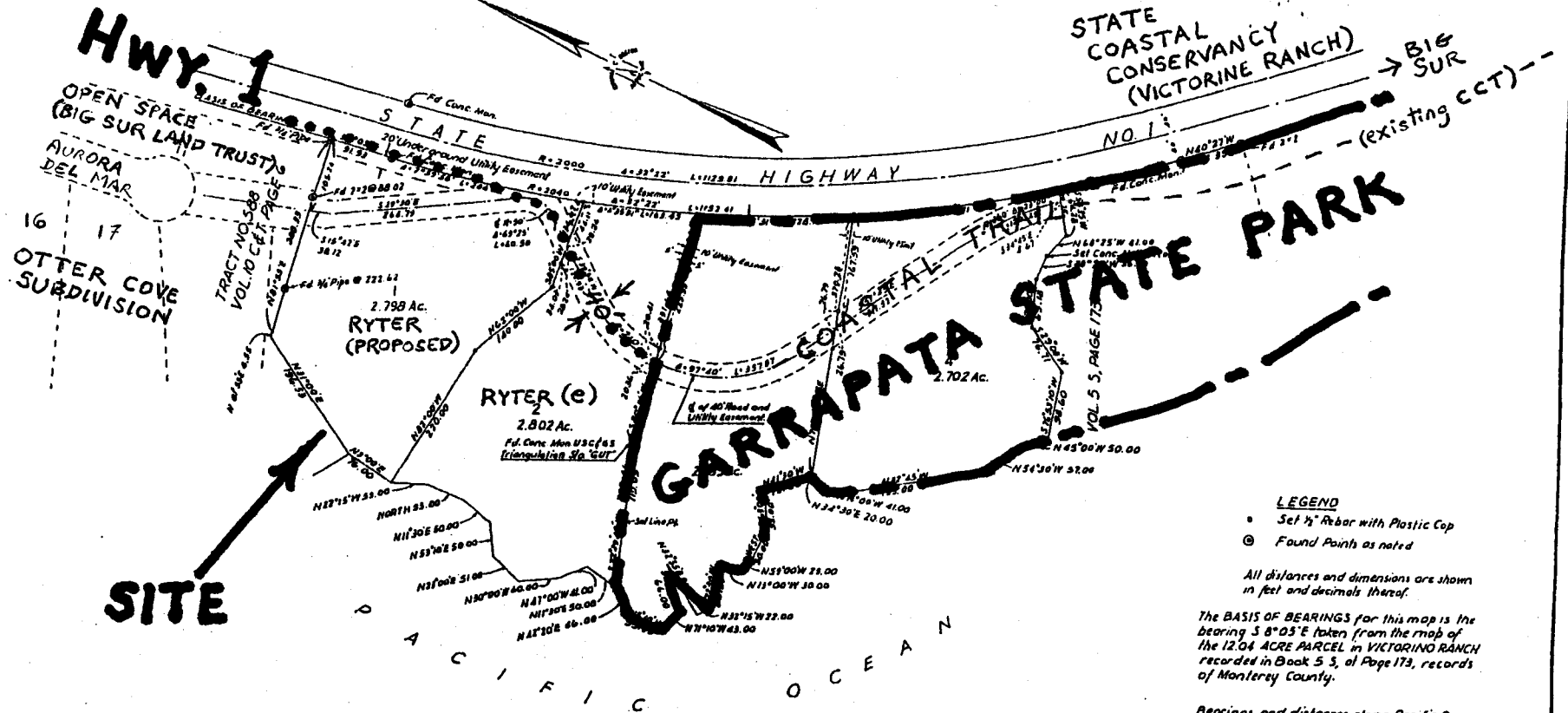
Permit Cond. #	Mitigation # from ND/EIR	Condition and Condition #, or Mitigation Measure Number, Category, Text, Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable	Responsible Party for Clearing Condition	Responsible Party for Monitoring Conditions	Monitoring Schedule (Timing)	Verification of Completed or Ongoing Mitigation or of Non-Compliance	Action to Achieve Compliance
		b. Protect all buckwheat plants on or near the subject property with a five-foot buffer. A temporary fence shall be placed around each buckwheat plant that meets this buffer area. c. Control dust during construction with water in accordance with current Best Management Practices and Monterey County grading regulations	Monitor site for continued compliance with dust control.	Contractor Inspectors	PBI	During grading		
	5	In order to protect all significant trees on or near the subject site, the applicant shall avoid excavation near these trees.	Provide plans that identify all significant trees to be maintained during construction.	Applicant	P&BI	Prior to issuance of grading permits		
			Install temporary fencing around the drip line all significant trees to be maintained during construction.	Applicant	P&BI	Prior to issuance of grading permits		
	6	In order to assure that no nesting birds are disturbed, the applicant shall survey large shrubs or trees on or near the project area for nesting birds, particularly if grading is scheduled to begin prior to August 1 st . If nesting birds are discovered on or near the project area, the applicant shall contact the California Department of Fish and Game regarding measures to avoid impacts.	Provide a report with photos that certifies the proper removal of all nesting birds within the project area.	Applicant	P&BI	Prior to grading		
	7	To avoid attracting frogs during development, no vegetation removal shall take place while it is raining. Furthermore, precautions should be taken to prevent puddles on site that may attract wildlife within the construction area.	Monitor the site and fill any potential puddle areas	Applicant Inspectors	P&BI	During Site Preparation and Grading		
			Submit a monitoring report to the Planning and Building Inspection that documents findings and any measures taken at the end of each workday.	Applicant	PBI	Prior to Final Approval		

Permit Cond. #	Mitigation # from ND/EIR	Condition and Condition #, or Mitigation Measure Number, Category, Text, Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable	Responsible Party for Clearing Condition	Responsible Party for Monitoring Conditions	Monitoring Schedule (Timing)	Verification of Completed or Ongoing Mitigation or of Non-Compliance	Action to Achieve Compliance
	8	<p>In order to maintain and enhance the sensitive habitat in this area:</p> <p>a. All non-native, invasive plant species (French broom, pampas grass, etc.) shall be controlled and eradicated from areas within and near the development and re-planted with native vegetation to the satisfaction of the Director of Planning and Building Inspection.</p> <p>b. Disturbed slope areas shall require netting and reseeding with native ground cover as determined appropriate by a qualified biologist.</p> <p>c. Leach field areas shall be planted with herbaceous, shallow rooted plants that are not excessively water-loving.</p>	Install and maintain silt fencing along disturbed areas. Said fencing shall remain in place until the soil is stabilized including but not limited to the arroyo and bluff edge.	Applicant	P&BI	During construction		
			Provide written certification by a qualified biologist that Mitigation Measure 8 has been completed.	Biologist	P&BI	Prior to final inspection		
			<p>Maintain the site free of invasive vegetation.</p> <p>Failure to comply within 30 days of notice from an authorized County representative shall result in a code enforcement action recorded against the property.</p>	Applicant	P&BI	On-going		
	9	<p>In order to address geotechnical conditions identified for the project site, the applicant shall submit grading plans that incorporate:</p> <p>a. All recommendations listed on pages 11-12 of the Johnson Geological Assessment and addendums. These items shall be copied onto said grading plans as specifications for the proposed project.</p> <p>b. All recommendations listed on pages 8-18 of the Haro Geotechnical Investigation and addendums. These items shall be copied onto said grading plans as specifications for the proposed project.</p> <p>c. Coordination with landscaping plans/recommendations to help prevent future sloughing of the upper cliff face (Mitigation Measure #3).</p> <p>Grading plans shall be subject to review and approval by the Direction of Planning and Building Inspection.</p>	<p>Submit grading plans stamped by a certified geotechnical engineer and completed in accordance with Mitigation Measure #9.</p> <p>Recommendations shall be placed as specifications on the Grading Plans.</p>	Applicant	P&BI	Prior to issuance of a grading permit		

<i>Permit Cond. #</i>	<i>Mitigation # from ND/EIR</i>	<i>Condition and Condition #, or Mitigation Measure Number, Category, Text, Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable</i>	<i>Responsible Party for Clearing Condition</i>	<i>Responsible Party for Monitoring Conditions</i>	<i>Monitoring Schedule (Timing)</i>	<i>Verification of Completed or Ongoing Mitigation or of Non- Compliance</i>	<i>Action to Achieve Compliance</i>
	10	In order to monitor geotechnical conditions identified for the project site, the applicant shall submit reports from a certified geotechnical engineer that inspect, test and approve all geotechnical aspects of the project construction including, but not limited to: site preparation and grading, site drainage improvements, foundation and retaining wall excavations prior to placement of steel and concrete, and excavations for utilities prior to placement of conduits.	Inspect, test and approve all geotechnical aspects of the project construction and report all findings.	Certified Geotechnical Engineer	P&BI	Prior to final grading approval		
	11	To prevent runoff from moving soil off-site and to prevent post construction erosion, appropriate erosion control measures and the soil shall be re-vegetated within 60 days of completing construction.	Contact the Planning and Building Inspection Department for a representative to inspect the project area relative to compliance with Mitigation Measure #11.	Applicant	P&BI	Prior to Final Permit Approval		
	12	To reduce potential impacts to the soil and water systems, the applicant shall submit a detailed septic system design that meets the regulations found in Chapter 15.20 of the Monterey County Code, and Prohibitions of the Basin Plan, Regional Water Quality Control Board.	Submit a detailed septic system design in accordance with Mitigation Measure #12.	Applicant	Env Health	Prior to issuance of a building permit		

<i>Permit Cond. #</i>	<i>Mitigation # from ND/EIR</i>	<i>Condition and Condition #: or Mitigation Measure Number, Category, Text, Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed or documented, including performance measures, if applicable.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Responsible Party for Monitoring Conditions</i>	<i>Monitoring Schedule (Timing)</i>	<i>Verification of Completed or Ongoing Mitigation or of Non- Compliance</i>	<i>Action to Achieve Compliance</i>
	13	To reduce potential erosion impacts from drainage, the applicant shall submit a drainage plan shall be prepared by registered civil engineer or architect addressing on-site and off-site impacts, to include dispersal of impervious surface stormwater runoff into the arroyo or onto a non-erodible surface below the bluff. Energy dissipater(s) shall be installed below any drainage line in order to reduce erosion from storm water channeling. Said dissipater(s) shall be designed with rock to resemble natural conditions. Said plans shall be submitted to the Water Resources Agency for review and approval.	Submit a drainage plan that is prepared by a registered civil engineer or architect in accordance with Mitigation Measures #9 and 13.	Applicant	WRA	Prior to issuance of grading or building permits		

EX.5



SITE

..... **POTENTIAL COASTAL TRAIL ALIGNMENT**

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Land Surveyor's Act of the request of Paul A. Campbell in 1971.

COUNTY SURVEYOR'S CERTIFICATE

This map has been examined for conformance with the requirements of the Land Surveyor's Act of this day of November, 1971. The division of land on this map complies with the provisions of the Subdivision Map Act, Chapter 2, commencing with Section 11500 of the Business and Professions Code and Monterey County Ordinance No. 1115 enacted pursuant thereto.

BRUCE W. McCLAIN
County Surveyor

Charles P. Bluff
By Deputy

35646

RECORDER'S CERTIFICATE

Filed this 1st day of NOVEMBER, 1971 at 1:17 P.M. in Book 53 of Maps of page 47 of the request of George C. Bestor & Associates

E.R. MAGGINI
County Recorder

W. Zumwalt
By Deputy

RECORD OF SURVEY
OF

A PORTION OF 12.04 ACRE PARCEL

in
VICTORINO RANCHO

RANCHO SAN JOSE Y SUR CHIQUITO

Prepared for **Paul A. Campbell**

BY

GEORGE C. BESTOR AND ASSOCIATES, INC.
CIVIL ENGINEERING · SURVEYING · LAND PLANNING
MONTEREY CALIFORNIA

SCALE 1" = 100' W.D. 2128.1

B-30-71



EXHIBIT NO. 4

APPLICATION NO. A-3-MCO-03-090

POTENTIAL COASTAL TRAIL ALIGNMENT

California Coastal Commission