

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863

W12c**RECORD PACKET COPY**

Filed:	07/08/03
49 th Day:	08/26/03
Staff:	MJN
Staff Report:	07/14/03
Hearing Date:	08/06/03

Staff Report: Appeal

Substantial Issue Determination

Application numberA-3-MCO-03-066, McWethy

Applicant.....McWethy Management Partnership

AppellantsCommissioners Reilly and Wan

Project location.....Hurricane Point (between mile posts 58 & 59, south of Hurricane Point Overlook, between Highway 1 and the ocean), Big Sur (Monterey County) (APN 418-171-001).

Project descriptionDemolition of an existing, approximately 2,225 sq. ft. one-story single family residence; construction of an approximately 3,470 sq. ft. two-story single family dwelling; and design approval.

Local approval.....The Monterey County Planning Commission approved a Combined Development Permit Resolution 03028, (PLN020189) for the project on March 28, 2003.

File documents.....Monterey County certified Local Coastal Program; Final Local Action Notice 3-MCO-03-229; documents and materials from the local record provided by Monterey County on May 20, 2003; Big Sur Coast Land Use Plan.

Staff recommendation...Substantial Issue Raised

Summary: The Applicant proposes to demolish an existing; approximately 2,225 square feet one-story single family dwelling, approximate height of 15 feet and construct an approximately 3,470 square feet two-story single-family dwelling with a maximum height of 24 feet, within the Big Sur area of Monterey County. The proposed project is within 150 feet of environmentally sensitive habitat and would involve new development in the critical viewshed that will be more visible than the existing development. The County approved the project subject to 23 conditions, finding it consistent with the Monterey County Local Coastal Program.

The appellant's contentions relate to the proposed projects inconsistency with the visual resource policies of the Monterey County LCP. The LCP visual resource policy 3.2.1 Key Policy, prohibits new development visible from the critical viewshed. In addition, the appellants contend that the project is inconsistent with Critical Viewshed Policy 3.2.3.A.7, which states that for projects involving the replacement of structures, replacements shall be encouraged to be resited out of the viewshed, but in no case shall they be more visible than the development they replace.



California Coastal Commission
August 06, 2003 Meeting in Orange County

Staff: M. Nowak Approved by:

Staff recommends that the Commission determine that **a substantial issue** exists with respect to the grounds on which the appeal has been filed. In particular, the appeal raises a substantial issue regarding project conformance to LCP policies that prohibits new development and replacement structures visible from the critical viewshed (Big Sur Policies 3.2.1 *Key Policy*; 3.2.3.A.7).

In order to find the project consistent with the LCP policies a finding must be made that the proposed project will not be visible from the critical viewshed. In this case, the County evaluated this project as being in the critical viewshed but found the project to be in conformity with development standards for projects within the Big Sur viewshed. Field observations by Commission staff have confirmed that the project is in the critical viewshed, which is defined by LCP policy 3.2.2 as "...everything within sight of Highway 1 and major public viewing areas including turnouts..."; as specifically described by IP section 20.145.030, development is considered to be in the critical viewshed "if any portion of the proposed development is visible from Highway 1, including pull-outs, right-of-ways, and walkways at the highways edge." Again, staff have observed, and photo-documented at least one view from the edge of Highway 1 that shows the existing and proposed structure to be within the critical viewshed. Photos also show, based on the staking for the new residence, that the project will involve new development in the critical viewshed that will be more visible than the existing development, inconsistent with LCP policy 3.2.1, 3.2.3.A.7, and corresponding ordinances (20.145.030, (A)(1)(b), (A)(2)(f)). The County's findings do not apply the criteria of these policies to the proposed development but rather, simply conclude that the project "will have no significant impact on the public viewshed..." The finding is based in part on proposed screening from trees and shrubs, concluding that the "visual impact is considered less than significant..." However, the LCP standard for evaluating visual impacts is "**no increase in visibility**", not "significance" of the impact. Furthermore, the LCP is clear that visibility is to be determined by "existing conditions, regardless of landscaping or other techniques which could be later employed to screen the development" (20.145.030(A)(1)(b)). Relying on proposed screening to address visual resource impacts is not consistent with the LCP.

Therefore, staff recommends that the Commission find that a substantial issue is raised by the appellants' contentions, and that the de novo hearing on the project be continued to a later date to allow for further evaluation of the project under the resource protection standards of the LCP.



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Exhibits

1. Vicinity Map
2. APN Map
3. Site Plan
4. Appellants' Contentions
5. County Conditions of Approval
6. Botanical Map
7. Field photographs By CCC Staff

I. Local Government Action

On March 28, 2003, the Monterey County Planning Commission approved the Combined Development Permit PLN020189 for demolition of an existing, approximately 2,225 square feet single family residence, construction of an approximately 3,470 square feet single family dwelling within the Big Sur critical viewshed and within 100 feet of environmentally sensitive habitat; and design approval. The Monterey County Board of Supervisors approved the project on May 28, 2003, subject to 23 conditions. (See Exhibit 5 for detail).

II. Summary Of Appellants' Contentions

Please see Exhibit 4 for the full text of the appeal.

The appellants, Commissioners Reilly and Wan have appealed the final action taken by the County Board of Supervisors on the basis that approval of the project is inconsistent with visual resource policies of the Monterey County Local Coastal Program that prohibits new development visible from the critical viewshed.



III. Standard of Review for Appeals

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.

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 local coastal program 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 in order to issue a coastal development permit. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three 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 the additional finding will be required.

IV. Staff Recommendation On Substantial Issue

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal was filed pursuant to Coastal Act Section 30603.

MOTION:

Staff recommends a "NO" vote on the following motion:

"I move that the Commission determine that Appeal No. A-3-SLO-02-074 raises no substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a *de novo* hearing on the application, and adoption of the following resolution and findings.



RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-MCO-03-066 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project is located at Hurricane Point (between mile posts 58 and 59, south of Hurricane Point Overlook, between Highway One and the ocean), Big Sur area of Monterey County. (See Exhibit 1). The topography of the area is varied with numerous ridges and gullies, steep slopes, and a nearly flat area where the existing house is located. The majority of the lots in the area are typically forty acres in size and therefore historic development has been relatively sparse. Other private land in the area includes several small parcels approximately five acres in size adjacent to the subject property. These smaller parcels have the Pacific Ocean at or near their western sides, with two large ranches, El Sur and Funt Ranch to the north, east, and south.

In contrast to the typically large lots of Big Sur, the project site is a 5.2-acre parcel located west of Highway One. The topography is very steep with rugged terrain and a flat area where the existing structure is located. This area of Big Sur is characterized by upland habitats of the Coast Range grassland, mixed evergreen forest, and chaparral. The sea front areas of this portion of the coastline support coastal bluff scrub, coastal sage scrub, northern coastal scrub and coastal prairie. The property is characterized predominantly of coastal sage scrub, although much of the project site is landscaped with non-native plants. The site is designated Watershed and Scenic Conservation Residential in the Monterey County Local Coastal Program. Combined designation includes Critical Viewshed area.

The County approval consists of demolition of an approximately 2,225 square feet one-story single family dwelling and construction of an approximately 3,470 square feet partial two-story single family dwelling; and approval of the design of the proposed structure. The site plan is attached as Exhibit 3. Development will disturb approximately 3,379 square feet of the parcel and is located 20 feet from the eastern property boundary. Landscape conditions require removal of exotic plants and use of native plants, and placement of a Scenic and Conservation Easement over the entire parcel exclusive of the immediate building envelope and driveway. The project is located between two seasonal streams that contain Arroyo Willow riparian forest, which are within 150 feet of the project site (Exhibit 6). The County has conditioned the project to avoid impacts to these sensitive areas. Conditions include preventing excavated material from entering either of the seasonal streams and disposing all excavated material off-site or incorporated into the project design.



B. Substantial Issue Determination

1. Visual/Scenic Resources Development Standards

a. Relevant Local Coastal Program Provisions

The LCP visual resource protection policies prohibits new development visible from the critical viewshed:

3.2.1 Key Policy

*Recognizing the Big Sur coast's outstanding beauty and its great benefit to the people of the State and Nation, it is the County's objective to preserve these scenic resources in perpetuity and to promote the restoration of the natural beauty of visually degraded areas wherever possible. To this end, it is the County's policy to **prohibit all future public or private development visible from Highway 1 and major public viewing areas (the critical viewshed)**, and to condition all new development in areas not visible from Highway 1 or major public viewing areas on the siting and design criteria set forth in Sections 3.2.3, 3.2.4, and 3.2.5 of this plan. This applies to all structures, the construction of public and private roads, utilities, lighting, grading and removal or extraction of natural materials [emphasis added].*

This policy is implemented by IP Section 20.145.030:

Intent of Section: The intent of this Section is to provide development standards which will allow preservation of Big Sur's scenic resources and promote the restoration of the natural beauty of visually degraded areas wherever possible. To this end, all future public or private development which would be visible within the "Critical Viewshed", as defined in Section 20.145.020.V., shall be prohibited...

More specifically, for projects involving the replacement of structures, replacements shall be encouraged to be resited out of the viewshed, but in no case shall they be more visible. Critical Viewshed Policy 3.2.3.A.7 states:

*The general policy concerning replacement of structures shall be to encourage resiting or redesign in order to conform to the Key Policy. **Replacement or enlargement of existing structures, or structures lost in fire or natural disaster within the critical viewshed shall be permitted on the original location on the site, provided no other less visible portion of the site is acceptable to the property owner, and provided the replacement or enlargement does not increase the visibility of the structure.** Replacement or enlargement of structures outside the critical viewshed shall be permitted*



as long as such replacement or enlargement does not cause the structure to intrude into critical viewshed.

This policy is implemented by IP Section 20.145.030.A.2.f:

When a structure is to be replaced, resiting or redesign should be required as necessary in order to better conform the Intent of this section. Replacement or enlargement of existing structures, or structures lost in fire or natural disaster within the critical viewshed shall be permitted on the original location on the site, provided no other less visible portion of the site is acceptable to the property owner, and provided the replacement or enlargement does not increase the visibility of the structure...

b. County Action

The staff report indicates that the County evaluated this project as being in the critical viewshed. The applicant is required to comply with 23 conditions, which includes the planting of a continuous row of trees at the perimeter of the building envelope that will serve to screen the property from the public viewshed in the future when the existing trees die. The project has also been conditioned to replace exotic plants with native vegetation compatible with the native plant community, which is coastal sage scrub. The County accepted these conditions to address the proposed projects impact to the critical viewshed.

c. Substantial Issue Analysis

The County evaluated this project as being in the critical viewshed. Field observations by Commission staff have confirmed that the project is in the critical viewshed, which is defined by LCP policy 3.2.2 as "...everything within sight of Highway 1 and major public viewing areas including turnouts..." specifically described by IP Section 20.145.030, development is considered to be in the critical viewshed "if any portion of the proposed development is visible from Highway 1, including pull-outs, right-of-ways, and walkways at the highways edge." Again, staff have observed, and photo-documented at least two views from the edge of Highway 1 that shows the existing and proposed structure to be within the critical viewshed (see Exhibit 7).

Photos also show, based on the staking for the new residence, that the project will involve new development in the critical viewshed that will be more visible than the existing development, inconsistent with LCP policy 3.2.1, 3.2.3.A.7, and corresponding ordinances (20.145.030, (A)(1)(b), (A)(2)(f)) (see Exhibit 7). The County's findings do not apply the criteria of these policies but rather, conclude that the project "will have no significant impact on the public viewshed..." The finding is based in part on proposed screening from trees and shrubs, concluding that the "visual impact is considered less than significant..." However, the LCP standard for evaluating visual impacts is clearly "no increase in visibility", not "significance" of



the impact. Furthermore, the LCP is clear that visibility is to be determined by "existing conditions, regardless of landscaping or other techniques which could be later employed to screen the development" (20.145.030(A)(1)(b)). Relying on proposed screening to address visual resource impacts is not consistent with the LCP.

d. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance to LCP Visual Resources Policies because the locally approved development will disrupt sensitive scenic resources within the critical viewshed. Alternatives that would avoid impacts to the Big Sur critical viewshed, and that would be consistent with the LCP requirements to not impact the viewshed, should be considered.

Therefore, a substantial issue is raised by this contention with respect to adverse impacts to the LCP critical viewshed policies.

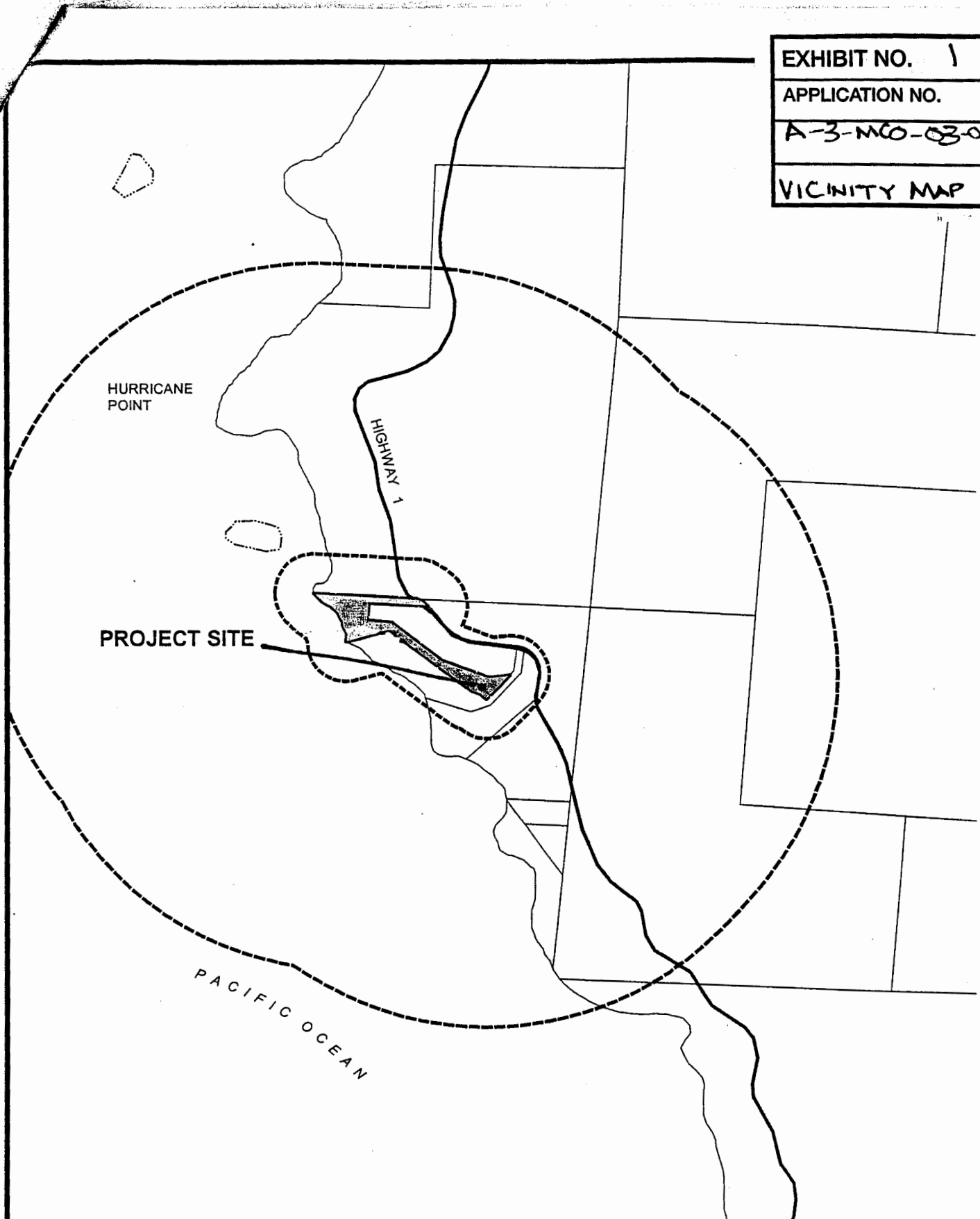


EXHIBIT NO. 1

APPLICATION NO.

A-3-MCO-03-08

VICINITY MAP



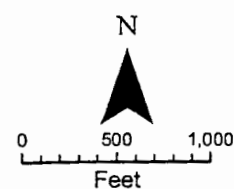
APPLICANT: McWETHY MANAGEMENT PTNR

APN: 418-171-001-000

FILE# PLN020189

300' Limit

2500' Limit



PLANNER: LUTES

EXHIBIT NO. 2

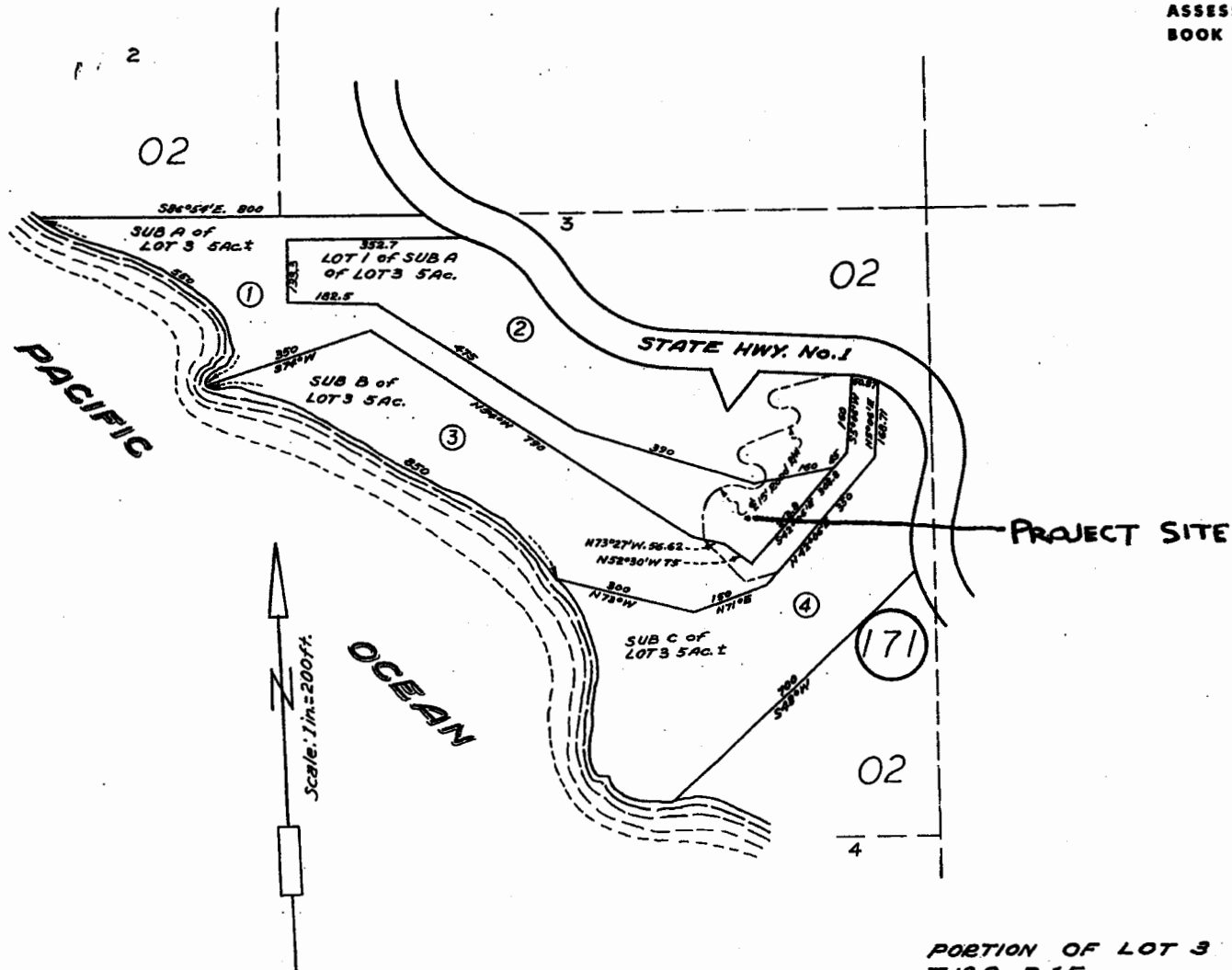
APPLICATION NO.

A-3-MCO-03-0

APN MAP

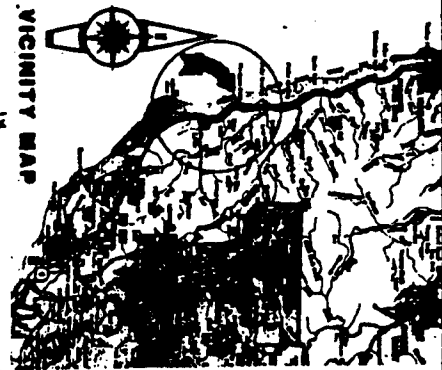
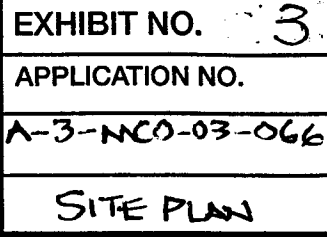
TAX CODE AREA

COUNTY OF MONTEREY
ASSESSOR'S MAP
BOOK 418 PAGE 17

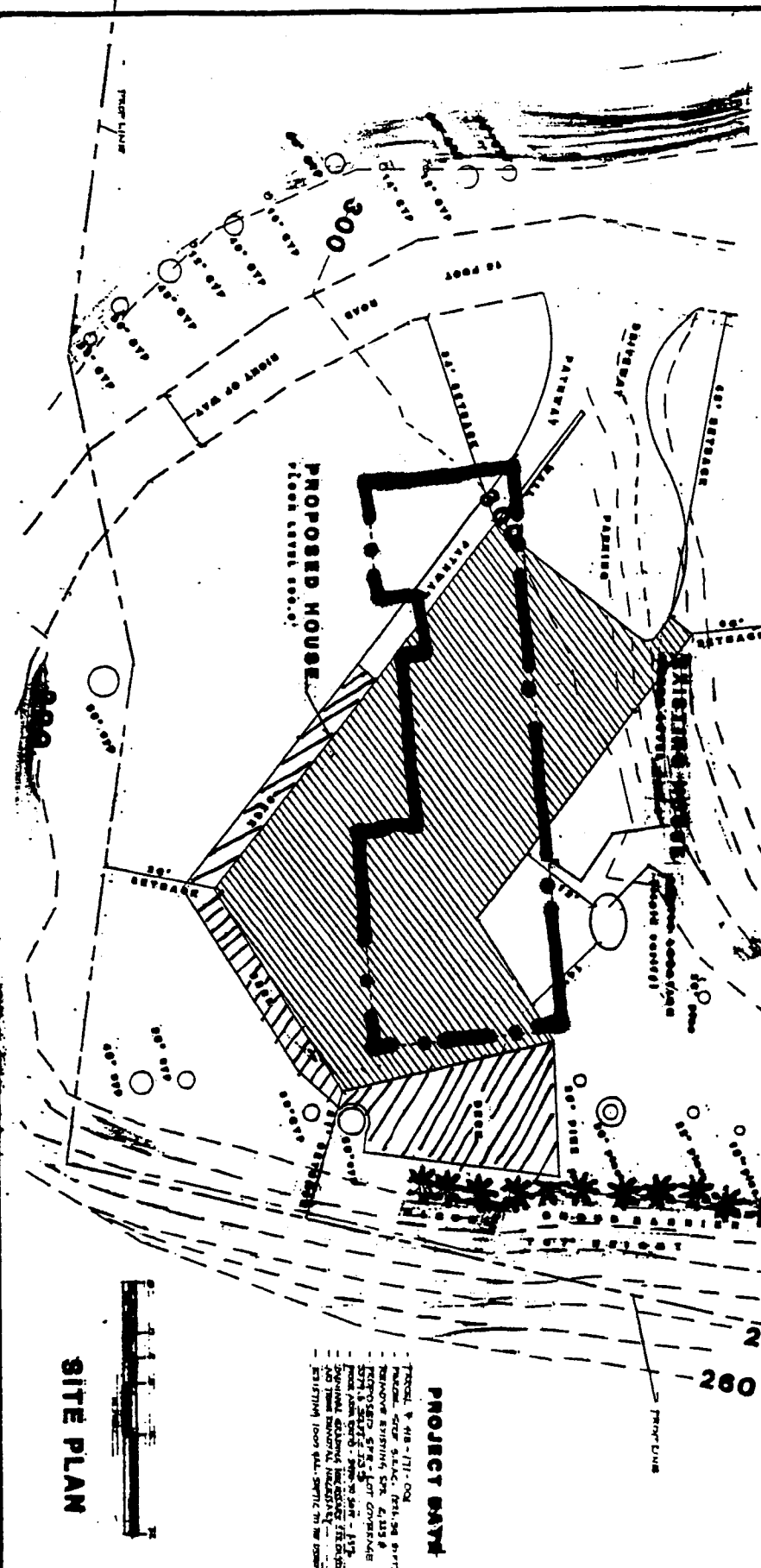
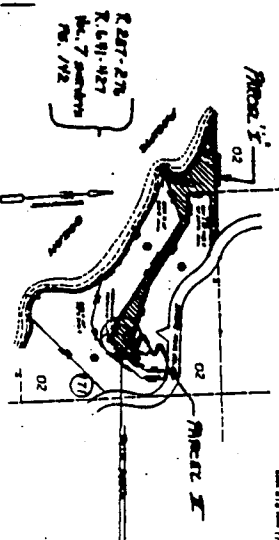


PORTION OF LOT 3 SEC. 19
T.18 S., R.1 E.

(18-1P)



PROPOSED RESIDENCE
PROPOSED DECK



SITE PLAN

PROJECT DATA

- [illegible]

MC WETHY RESIDENCE
HURRICANE POINT
BIG SUR, CA.

A R C H I T Y P E S
A r c h i t y p e s l l
P.O. Box 6232, Carmel, CA 93921 (881) 424 3432

DATE	11-11-85
TIME	11:00 AM
LOCATION	44-2312
OFFICER	W. J. J.
REMARKS	1

[illegible]

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200



RECEIVED

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

JUN 30 2003

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Mike Reilly, ChairpersonSara Wan, CommissionerCalifornia Coastal CommissionCalifornia Coastal Commission45 Fremont Street, Suite 200045 Fremont Street, Suite 2000San Francisco, CA 94105-2219San Francisco, CA 94105-2219(415) 904-5200(415) 904-5200SECTION II. Decision Being Appealed1. Name of local/port government: Monterey County

2. Brief description of development being appealed:

Demolition of an existing, approx. 2,225 sq. ft. single family residence; allow development
potentially within the Big Sur critical viewshed and within 100 ft. of ESHA; construction of an
approx. 3,470 sq. ft. single family dwelling; and design approval.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

Hurricane Point (between mile posts 58 and 59, south of Hurricane Point Overlook, between
Hwy. 1 and the ocean), Big Sur (Monterey County)(APN 418-171-001)

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be
appealed unless the development is a major energy or public works project. Denial decisions
by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-MCO-03-066DATE FILED: 7/8/03DISTRICT: Central CoastEXHIBIT NO. 4

APPLICATION NO.

A-3-MCO-03-066

APPELLANTS CONTENTS

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator
- b. ☐ City Council/Board of Supervisors
- c. ☒ Planning Commission
- d. ☐ Other: _____

6. Date of local government's decision: March 28, 2003

7. Local government's file number: Resolution 03028 (PLN 020189)

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

McWethy Management Partnership

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jeff Main, Monterey County Planning Department
PO Box 1208
Salinas, CA 93902

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

EXHIBIT NO. 4
APPLICATION NO.
A-3-MCO-03-066
P2

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date June 30, 2003

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

EXHIBIT NO. <u>4</u>
APPLICATION NO. <u>A-3-MC003-066</u>
<u>P.3</u>

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Lee J. Wen*
Appellant or Agent

Date: June 30, 2003

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

EXHIBIT NO. 4
APPLICATION NO.
A-3-MCO-03-066
P. 4

Basis of Appeal

This approval of a 2,225 square foot residence and construction of an approximate 3,470 square foot residence is inconsistent with the visual resource policies of the Monterey County LCP.

The LCP visual resource protection policies prohibits new development visible from the critical viewshed:

3.2.1 Key Policy

*Recognizing the Big Sur coast's outstanding beauty and its great benefit to the people of the State and Nation, it is the County's objective to preserve these scenic resources in perpetuity and to promote the restoration of the natural beauty of visually degraded areas wherever possible. To this end, it is the County's policy to **prohibit all future public or private development visible from Highway 1 and major public viewing areas (the critical viewshed)**, and to condition all new development in areas not visible from Highway 1 or major public viewing areas on the siting and design criteria set forth in Sections 3.2.3, 3.2.4, and 3.2.5 of this plan. This applies to all structures, the construction of public and private roads, utilities, lighting, grading and removal or extraction of natural materials [emphasis added].*

More specifically, for projects involving the replacement of structures, replacements shall be encouraged to be resited out of the viewshed, but in no case shall they be more visible. Critical Viewshed Policy 3.2.3.A.7 states:

*The general policy concerning replacement of structures shall be to encourage resiting or redesign in order to conform to the Key Policy. **Replacement or enlargement of existing structures, or structures lost in fire or natural disaster within the critical viewshed shall be permitted on the original location on the site, provided no other less visible portion of the site is acceptable to the property owner, and provided the replacement or enlargement does not increase the visibility of the structure.** Replacement or enlargement of structures outside the critical viewshed shall be permitted as long as such replacement or enlargement does not cause the structure to intrude into critical viewshed.*

The County evaluated this project as being in the critical viewshed. Field observations by Commission staff have confirmed that the project is in the critical viewshed, which is defined by LCP policy 3.2.2 as ". . . everything within sight of Highway 1 and major public viewing areas including turnouts . . . "; as specifically described by IP section 20.145.030, development is considered to be in the critical viewshed "if any portion of the proposed development is visible from Highway 1, including pull-outs, right-of-ways, and walkways at the highways edge." Again, staff have observed, and photo-documented at least one view from the edge of Highway 1 that shows the existing and proposed structure to be within the critical viewshed.

EXHIBIT NO.
APPLICATION NO.
A-3-MCO-03-06
P.5
California Coastal Commission

Photos also show, based on the staking for the new residence, that the project will involve new development in the critical viewshed that will be more visible than the existing development, inconsistent with LCP policy 3.2.1, 3.2.3.A.7, and corresponding ordinances (120.145.030, (A)(1)(b), (A)(2)(f)). The County's findings do not apply the criteria of these policies but rather, conclude that the project "will have no significant impact on the public viewshed..." The finding is based in part on proposed screening from trees and shrubs, concluding that the "visual impact is considered less than significant..." However, the LCP standard for evaluating visual impacts is clearly "no increase in visibility", not "significance" of the impact. Furthermore, the LCP is clear that visibility is to be determined by "existing conditions, regardless of landscaping or other techniques which could be later employed to screen the development" (20.145.030(A)(1)(b)). Relying on proposed screening to address visual resource impacts is not consistent with the LCP.

EXHIBIT NO. 4
APPLICATION NO. 3-MCO-03-000
P. 6 California Coastal Commission

RECEIVED

JUL 08 2003



PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-MCO-03-229
APPEAL PERIOD 7/9-7/22/03

RESOLUTION NO. 0302

A. P. # 418-171-001-000

FINDINGS AND DECISION

In the matter of the application of
McWethy Management Partnership (PLN020189)

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 South Forty, Hurricane Point, Big Sur between Highway One mile posts 58 and 59, south of the Hurricane Point Overlook and between State Highway One and the Pacific Ocean, Coastal Zone, came on regularly for hearing before the Planning Commission on May 28, 2003.

WHEREAS: Said proposal includes:

- 1) a Coastal Development Permit for demolition of an existing, approximately 2,225 square foot single family dwelling,
- 2) a Coastal Development Permit for development potentially within the Big Sur critical viewshed and within 100 feet of an environmentally sensitive habitat,
- 3) a Coastal Administrative Permit for construction of an approximately 3,470 square foot single family dwelling; and
- 4) Design Approval

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

FINDINGS OF FACT

1. **FINDING:** The project proposed in this application consists of a Combined Development Permit (PLN020189) for (1) demolition of an existing, approximately 2,225 square foot single family dwelling; (2) a Coastal Development Permit for development potentially within the Big Sur Critical Viewshed; (3) a Coastal Development Permit within 100 feet of an Environmentally Sensitive Habitat; (4) a Coastal Administrative Permit for construction of an approximately 3,470 square foot single family dwelling; and (4) Design Approval. The project is described in condition #1 of Exhibit "D," and as conditioned, conforms to the plans, policies, requirements and standards of the following documents:
 - a) The certified Big Sur Coast Land Use Plan
 - b) The certified Monterey County Coastal Implementation Plan, Part 1, regulations for "WSC/40" Coastal Zone Districts found in Sections 20.17.030 B.
 - c) The Big Sur Coastal Implementation Plan, Section 20.145.020.V.

EVIDENCE: The project, a single family home with septic system, is an allowed use with a Coastal Administrative Permit based on Chapter 20.17 of the Coastal Implementation Plan, development in a Watershed and Scenic Conservation Zoning District. The use is conditional because of the following:

- the proposed structure is potentially in the Big Sur Critical Viewshed

A-3-MCO-03-066
McWethy

Exhibit 5
Pg 1 of 16

- the development is potentially within 100 feet of an environmentally sensitive habitat based on Section 20.145.040 of the Big Sur Coastal Implementation Plan.
- EVIDENCE:** Planning and Building Inspection Department staff have reviewed the project as contained in the application and accompanying materials and have determined that the project is consistent with the above listed plans and is appropriate for residential development in an area designated for Watershed and Scenic Conservation ("WSC/40"), and is in conformity with the following development standards:

Development standards for projects within the Big Sur viewshed:

- Big Sur Coast Land Use Plan: Chapter 3.2, Scenic Resources (with special attention for development of land within the critical viewshed, Section 3.2.3. The project is identified as a replacement of an existing structure within the critical viewshed which is permitted as long as such replacement does not cause the structure to intrude into critical viewshed as stated in Section 3.2.3 A. 7., Critical Viewshed Policies.
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.030, with special attention to Section 20.145.030. A. 2. f., Development Standards.

Development standards for development adjacent to environmentally sensitive habitats:

- Monterey County General Plan: Chapter I, Goals 7 and 9 with attending Objectives and Policies.
- Big Sur Coast Land Use Plan: Chapter 3.3, Environmentally Sensitive Habitats with special attention to Sections 3.3.2., Policies 1 through 7 and 9; Section 3.3.3., A., Specific Policy for Terrestrial Plants, and Section 3.3 3, B., Policies 1 and 4, Specific Policies for Marine Habitats.
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.040, A., "Biological Survey Requirement;" Section 120.145.040 B., items 1 through 4, and 9, "General Development Standards;" Section 120.145.040 C. 2, items a through d and g, "Marine Habitats."
- Big Sur Coastal Implementation Plan, Part 6, Appendix 2b, Big Sur Resource Maps.

Development standards for development within 50 feet of the face of a cliff or bluff or within the area of a 20 degree angle above horizontal from the face of a cliff:

- Big Sur Coast Land Use Plan: Chapter 3.7, Key Policy 3.7.1 and General Policies 3.7.2, with special attention to Specific Policy 3.7.3 A., "Geologic Hazards," and 3.7.3 C. "Fire Hazard."
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.080 A b 2 and A i, "Geologic Report Requirement."

Development standards for development in an area with high archaeological resources:

- Big Sur Coastal Implementation Plan, Part 6, Appendix 2b, "Big Sur Resource Maps."
- Big Sur Coast Land Use Plan: Chapter 3.11, with special attention to General Policies 3.11.2, items 1 through 6.
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.120, "Archaeological Resources Development Standards," with special attention to

Section 20.145.120 B., "Archaeological Survey Report Requirement," and Section 20.145.120 D., "Development Standards."

The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.

EVIDENCE: Necessary public facilities are available to the project site.

- a) Water is to be supplied by the South Forty Water System that is required to comply with the State of California, Department of Health Services for drinking water standards by providing adequate filtration and disinfection.
- b) PG&E service is available to the site from a Highway One utility easement. All public utilities serving the site are required to be placed underground to avoid any adverse visual impact within the Big Sur Critical Viewshed.

EVIDENCE: The parcel is zoned Watershed and Scenic Conservation ("WSC/40") that allow for single family dwellings with required setbacks, building site coverage and height limits. The Project Review Sheet, Exhibit "A" provides these requirements.

2. **FINDING:** The proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development adjacent to environmentally sensitive habitats. The Biological Report prepared for the site by consulting biologist, Jeff Norman states no significant negative impact will result from this development, with the recommended conditions. The recommendations contained in the report include the removal of exotic or non-native plants at the site, preventing excavated materials from entering the marine habitat or the adjacent Arroyo Willow Riparian Forest found in two drainages within 150 feet of the site, or impact 3 specimens of Monterey Indian paintbrush. Related conditions have been added that requires the applicant to comply with the construction specifications contained in the Biological Report, condition numbers 3 and 4..

EVIDENCE: The Biological Report dated May 14, 2000, prepared for the site by consulting biologist Jeff Norman pursuant to requirements of the Big Sur Coastal Implementation Plan, Part 3: Section 20.145.040, A., "Biological Survey Requirement;" Section 120.145.040 B., items 1 through 4, and 9, "General Development Standards;" Section 120.145.040 C. 2, items a through d and g, "Marine Habitats."

EVIDENCE: The project mitigations include a Scenic and Conservation Easement over the entire, newly created parcel exclusive of the immediate building envelope and driveway in order to protect the Coastal Sage Scrub plant community and marine habitat on the parcel, condition number 16.

EVIDENCE: Geotechnical Soils-Foundation Report dated February 2000, prepared by Grice Engineering, Inc., specifies site preparation, surface drainage and erosion control measures to minimize disturbance to off-site marine and plant habitats and any potential for seismic hazards. A related condition has been added that requires the applicant to comply with the mitigations contained in the Geotechnical Report, condition number 3.

EVIDENCE: Coastal Implementation Plan, Part 6, Appendix 2b.

3. **FINDING:** The project, as conditioned, is consistent with applicable plans and policies for development within 50 feet of the face of a cliff or bluff and within the area of a 20 degree angle above horizontal from the face of a cliff as found in the Big Sur Coast Land Use Plan; the Big Sur Coastal Implementation Plan, Part 3 and Part 6, and Title 20, Part 1, Zoning Ordinance.

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EVIDENCE: Technical reports have been provided by the following soils, geology and geotechnical consultants to address the potential geologic hazards at the site:

- Gasch & Associates, Geologic Hazard Investigation, January 2000.
- Grice Engineering, Inc., Geotechnical Soils-Foundation Report, February 2000.
- Grice Engineering, Inc., Erosion Control Plan, August 29, 2002.

The reports provide recommended construction specifications that provide additional assurances regarding project safety. The Gasch & Associates report states the site has little potential for liquefaction. Seismic related hazards require following the requirements of the Grice Engineering, Inc. geotechnical report regarding site preparation, foundation specifications and erosion control measures. These reports are found in the project file (PLN020189).

EVIDENCE: The above reports are consistent with policies of the Big Sur Area Land Use Plan dealing with development in hazardous areas. The geologic report prepared for the site by Gasch & Associates is consistent with "Guidelines for Geologic/Seismic Reports" of the California Divisions of Mines and Geology. The report concludes that the proposed project can proceed with conditions.

EVIDENCE: Coastal Implementation Plan, Part 6, Appendix 2b.

4. **FINDING:** The project as proposed is consistent with policies of the Big Sur Area Land Use Plan dealing with visual resources and will have no significant impact on the public viewshed as conditioned.

EVIDENCE: As a project potentially within the Big Sur Critical Viewshed, the proposed project was evaluated in terms of the impact upon the public viewshed. a) The project situated below Highway One will not result in ridgeline development. b) The project takes advantage of a row of existing mature Monterey pines and Cypress around the periphery of the existing building site and a row of shrubbery at the eastern edge that screens the site from the Highway One Critical Viewshed. The policy for replacement of an existing structure in the Big Sur Critical Viewshed can be found in Section 3.2.3 A.7 of the Big Sur Coast Land Use Plan, and the standards for development can be found in the Big Sur Coastal Implementation Plan, Part 3: Section 20.145.030 2. f.

EVIDENCE: During review of the proposed structure, the proposed building location was reoriented in order to minimize glass reflection in the critical viewshed as seen from Highway One. The building foot print was moved toward a more southwesterly direction away from Highway One vantage points.

EVIDENCE: The proposal takes advantage of the existing topography by placing the proposed building behind mature trees and shrubs so as to be screened from Highway One. This visual impact is considered less than significant because the trees shroud the proposed structure from passing cars and the distant view from a Highway One turnout 3 to 4 miles south of the site.

EVIDENCE: The Big Sur Land Use Advisory Committee ("LUAC") voted on October 22, 2002 to approve the project by a vote of 4 to 1 with 2 absent, and with no comments. The LUAC held 3 meetings to resolve the issue of potential glass reflection in the critical viewshed because of the proposed floor to ceiling windows at the southwest elevation of the proposed residence. Conditions have been placed on the building materials such as non-reflective windows and no outdoor lighting (pursuant to Section 20.145.030 A. b) that can be seen from Highway One. The proposed camel-colored Santa Rita stone walls and chimney with Forest Green trim and the grey late roof, all shrouded by the ring of mature trees, will harmonize with the surrounding landscape.

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EVIDENCE: The project planner's visit to the site upon the applicant's flagging of the height and breadth of the proposed structure pursuant to Section 20.145.030, B. 6. of the Monterey County Coastal Implementation Plan to verify that the project on the subject parcel conforms to the Big Sur Land Use Plan, Section 3.2.3, development in the Big Sur Critical Viewshed.

EVIDENCE: Special attention was given to the **Big Sur Coastal Implementation Plan, Section 20.145.030 B. 6. e** that requires development be subject to the following development standards:

e. "...scenic easements shall be dedicated over undeveloped portion of lot...."

Given the limited options at the site for protection of the environmentally sensitive habitat and locations outside of the public viewshed, the Combined Development Permit for the project includes placement of a Scenic and Conservation Easement over the entire parcel exclusive of the immediate building envelope and driveway, condition number 16.

5. **FINDING:** Project as sited and proposed does not interfere with any form of historic public use or trust rights as found in Section 20.70.050 B 4 of the Coastal Implementation Plan, Part I, and there is no access required to accommodate the proposed use as evidenced in proposed plans.

EVIDENCE: The subject property is not described as an area where the Local Coastal Program requires access given the dedicated access sites at Hurricane Point and the major access area at Little Sur, north and south of the subject parcel.

EVIDENCE: The Big Sur Coast Land Use Plan, Table 2, "Site Specific Recommendations for Shoreline Access."

6. **FINDING:** The subject property is in compliance with all rules and regulations pertaining to the use of the property; no violations exist on the property and all zoning abatement costs, if any have been paid.

EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and verified that no violations exist on subject property.

7. **FINDING:** The site is suitable for the use proposed.

EVIDENCE: Staff conducted on-site visits and finds the site suitable for this use with the construction specifications placed on the project by the consulting biologist, geologist and geotechnical engineer during the short-term period of construction. Long term issues are addressed by landscape conditions requiring the removal of exotic plants and use of native plants immediate to the proposed residence, and placement of a Scenic and Conservation Easement over the entire parcel exclusive of the immediate building envelope and driveway, condition numbers 16 and 19.

EVIDENCE: The project has been reviewed for suitability by the Planning & Building Inspection Department, the California Department of Forestry Big Sur Fire District, the Environmental Health Division, the Public Works Department, the Water Resources Agency, the Big Sur Land Use Advisory Committee, and the California Coastal Commission. Conditions placed on the project by these agencies have been incorporated into the conditions found in Exhibit "D," condition numbers 7 to 12, 17, 18, 20, and 21.

EVIDENCE: The following consultant reports were conducted for the project upon which to evaluate the project to assure that the proposal would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County by

investigating soil conditions, geologic hazards, biologic and archaeologic/ cultural findings at the subject site:

- Archaeological Consulting, Preliminary Archaeological Reconnaissance, May 10, 2000.
- Jeff Norman, Biological Report, May 15, 2000.
- Gasch & Associates, Geologic Hazard Investigation, January 2000.
- Grice Engineering, Inc., Geotechnical Soils-Foundation Report, February 2000.
- Grice Engineering, Inc., Erosion Control Plan, August 29, 2002.

The reports indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed when subject to the proposed construction specifications. Recommended conditions (Exhibit "D") placed on the project require that construction follow the specifications recommended by these consultants, condition numbers 3, 4, 5 and 6.

8. **FINDING:** The project is consistent with Section 20.145.050 of the Coastal Implementation Plan dealing with Water Resources. The proposed project was evaluated in terms of the intensification of use in a Watershed Conservation area. It was determined that there would be no "substantial water use intensification" as the project is a replacement of an existing single family dwelling and would not increase the number of households (Section 20.145.050 B.) nor would the water source be transported from another watershed (Section 20.145.050 A).

EVIDENCE: Water continues to be supplied by the South Forty Water System that is required to comply with the State of California, Department of Health Services for drinking water standards by providing adequate filtration and disinfection.

9. **FINDING:** The project as proposed is consistent with policies of the Big Sur Coast Area Coastal Implementation Plan dealing with development in archaeologically sensitive areas. The preliminary archaeological reconnaissance performed at the construction site states that there are *no* identifiable archaeological resources located on site.

EVIDENCE: Preliminary Archaeological Reconnaissance prepared Archaeological Resources contained in the project file. A mitigation measure has been added to require that work be stopped in the event that any archaeological resources are found on site.

EVIDENCE: A condition requires that a Conservation and Scenic Easement shall be placed over the site to assure that no resource outside of the building envelope and driveway be "materially altered" in order to protect the natural resources at the site.

10. **FINDING:** The establishment, maintenance or operation of the Use/project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: The project was reviewed by the Planning & Building Inspection Department, the California Department of Forestry Big Sur Fire District, the Environmental Health Department, the Public Works Department, the Water Resources Agency, the Big Sur Land Use Advisory Committee, and the California Coastal Commission. The respective departments/agencies 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 (Exhibit "D").

EVIDENCE: The project site is found to be in a very high fire hazard area that shall require recorded noticing and compliance with the California Department of Forestry Fire Prevention ("CDF") conditions of approval for emergency access, an emergency water supply, proper signing for property identification, setbacks from flammable vegetation, indoor sprinkler system, and fire retardant roofing. The location of a water tank and the materials used for road surfacing required by the CDF shall require joint approval of the Planning & Building Inspection Department to be assured consistency with the Local Coastal Plan policies of development within the public viewshed, condition number 8.

EVIDENCE: Necessary public facilities are available and will be provided, particularly when the Fire District conditions of approval for emergency access to the site are implemented (see file no. PLN020189).

11. **FINDING:** There is no substantial evidence in the record as a whole before the Planning Commission that supports a fair argument that the proposed project as designed and conditioned, will have significant adverse effects on the environment.

EVIDENCE: Technical Reports have been prepared (listed under Evidence for Finding 7 above) as part of the environmental determination and recommendations have been incorporated into the project or made conditions of approval, condition numbers 3 to 6, 12, 14, 16, 22, and 23.

EVIDENCE: The Combined Development Permit for the project includes a Scenic and Conservation Easement over the entire, newly created parcel exclusive of the immediate building envelope and driveway given that there is no other feasible site on the two subject parcels that would be better screened visually from Highway One. The Scenic and Conservation Easement shall specify those portions of the property where sensitive habitats exist and are not to be materially altered except for the removal of invasive, exotic plant species, condition number 16.

EVIDENCE: Section 15302, Class 2 of the California Environmental Quality Act Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

12. **FINDING:** The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE: Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Title 20).

DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. This permit allows the demolition of an existing, approximately 2,225 square foot single family dwelling; and the replacement of an approximately 3,470 square foot single family dwelling potentially within the Big Sur Critical Viewshed and within 100 feet of an Environmentally Sensitive Habitat. The permit requires also approval of the design of the proposed structure. Except for excavation of a 400 square foot area for the proposed garage behind the structure as viewed from Highway One, no grading or tree removal is proposed.

The proposed development is found to be in compliance with County ordinances and use.

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regulations 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 Department)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution 03028) was approved by the Planning Commission for Assessor Parcel Number 418-171-001 on May 28, 2003. The permit was granted subject to 23 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 & Building Inspection)**
3. A notice shall be recorded with the Monterey County Recorder which states: "The following reports have been prepared for this parcel:
 - Archaeological Consulting, Preliminary Archaeological Reconnaissance, May 10, 2000;
 - Jeff Norman, Biological Report, May 15, 2000;
 - Gasch & Associates, Geologic Hazard Investigation, January 2000;
 - Grice Engineering, Inc., Geotechnical Soils-Foundation Report, February 2000.
 - Grice Engineering, Inc., Erosion Control Plan, August 29, 2002;and are on record in the Monterey County Planning and Building Inspection Department file no. PLN020189. All development shall be in accordance with these reports." **(Planning & Building Inspection)**
4. A note on the construction plans shall state the following: "All site preparation and construction will be consistent with the Biology Report prepared by Jeff Norman for the site to assure no debris or excavation materials enter the marine habitat, the Arroyo Willow Riparian Forest found in two drainages within 150 feet of the site, or impact 3 specimens of Monterey Indian paintbrush existing northwest of the exiting paved access road to the project site. The Monterey Indian paintbrush specimens will be protected by fencing during construction. All excavated material will be disposed of off the project site unless such material can be incorporated into the development project at the immediate construction site. No construction materials or debris shall be allowed to enter the tidal or intertidal zone." The note and site preparation plans will be reviewed by the Director of Planning, and Building Inspection, the Chief Building Officer, and the Department's Landscape Consultant for consistency with the intent of the Biology Report. **(Planning & Building Inspection)**
5. The improvement and excavation 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. The Erosion Control Plan shall provide mitigation measures that will allow the approved development to have a zero or negative increase in land disturbance. This program shall be approved by the Director of Planning and Building Inspection. **(Planning & Building Inspection)**

6. All development shall comply with the drainage and erosion control provisions of the Monterey County Coastal Implementation Plan. **(Planning & Building Inspection; Water Resources Agency)**
7. For the purpose of signing and building numbering, California Department of Forestry Fire District shall require the following:
 - a. All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address.
 - b. 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. 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. **(CDF Fire District)**
8. Emergency water standards required by the California Department of Forestry District are as follows:
 - a. Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction.
 - b. A minimum fire protection water supply of 3,000 gallons shall be provided regardless of parcel size. Minimum storage requirements for single family dwellings may be reduced to 2,000 gallons if an approved automatic fire sprinkler is required.
 - c. Fire hydrant: 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. The hydrant serving any building shall be not less than 50 feet nor more than 1,000 feet by road from the building it is to serve. 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. Each hydrant shall be identified with a reflectorized blue marker mounted on a fire retardant post. The post shall be within 3 feet of the hydrant, with a sign no less than 3 feet nor greater than 5 feet above ground, in a horizontal position and visible from the driveway. **(CDF Fire District and Planning & Building Inspection)**
9. The applicant shall submit for the Director of Planning and Building Inspection's review and approval a detailed landscaping and re-vegetation plan. **The plans shall include the planting of a continuous row of trees at the perimeter of the building envelope that will serve to screen the property from the public viewshed in the future when the existing trees die.** The plans shall have been reviewed by a certified biologist verified in the form of a letter by said consulting biologist. At minimum, the plan shall specify procedures for erosion control and re-establishment of native plant cover; and proposed landscaping species. Any landscaping plans and irrigation within the building envelope shall be evaluated in terms of erosion control measures and compatibility with the native plant community in the area—the Coastal Sage Scrub.
10. Roof protection: Roof construction shall be ICBO Class A. **(CDF Fire District)**
11. The applicant shall record a deed restriction which states: "The parcel is located in a very high fire hazard area and development may be subject to certain restrictions required as per Section 20.145.080 C.1.a.1 a) of the Coastal Implementation Plan and per the standards for development of residential property." **(Planning & Building Inspection)**

12. A drainage plan shall be prepared by a registered civil engineer or architect addressing on-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach field, over the least steep available slopes, with erosion control at outlets. **(Water Resources Agency, S.C.)**
13. The location of all utilities, including the location, type and size of all antennas, satellite dishes, towers, water tank and similar appurtenances shall be approved by the Director of Planning and Building Inspection. All new utility and distribution lines shall be placed underground at locations also approved by the Director of Planning and Building Inspection in consultation with the project biologist. **(Planning & Building Inspection; Public Works)**
14. Native trees, particularly the cluster of Monterey pines and cypress trees located close to the construction site, shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning & Building Inspection)**
15. No exterior lighting shall be allowed as seen from Highway One. No lights shall shine on the water, surrounding habitat, or other public viewing areas. The applicant shall submit 3 copies of a lighting plan which shall indicate the location, type, and wattage of all light fixtures to be assured that lighting will not create a glare that can be seen from Highway One. **(Planning & Building Inspection)**
16. The present owners shall convey to the County a Scenic and Conservation Easement over the parcel exclusive of building envelope and access driveway. The Scenic and Conservation Easement shall specify those portions of the property where the critical viewshed and sensitive habitats exist and are not to be materially altered except for the removal of invasive, exotic plant species. The easement shall include provisions to prevent disturbance of native plants and wildlife; to provide for maintenance needs; and to specify conditions under which non-native plant species may be controlled. The form and content of the easement must be approved and the easement recorded pursuant to Sections 20.145.030 A. 2. g. and 20.145.040 B. 2. of the Big Sur Coastal Implementation Plan, Part 3 and utilize Appendix 10 of the Monterey County Coastal Implementation Plan, Part 6. The easement shall provide an exemption for existing structures, any road improvements and landscaping approved as part of this permit. **(Planning & Building Inspection)**
17. Submit a detailed wastewater 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, RWQCB. Additionally, the plans shall show an engineered design for traffic reinforcement of the primary leachfield located under the driveway. **(Environmental Health Division)**

Prior to Final Building Inspection/Occupancy:

18. Highway 1 Water System #11 shall install a chlorination unit. The unit shall be approved and inspected by the Division of Environmental Health. **(Environmental Health Division)**
19. The applicant shall submit for the Director of Planning and Building Inspection's review and approval a detailed landscaping and re-vegetation plan. The plans shall have been reviewed by a certified biologist

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verified in the form of a letter by said consulting biologist. At minimum, the plan shall specify procedures for erosion control and re-establishment of native plant cover; and proposed landscaping species. Any landscaping plans and irrigation within the building envelope shall be evaluated in terms of erosion control measures and compatibility with the native plant community in the area—the Coastal Sage Scrub.

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. 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 & Building Inspection)**

20. For emergency access, the California Department of Forestry Fire District requires the following:
- Driveways shall not be less than 12 feet wide unobstructed. Unobstructed vertical clearance shall not be less than 15 feet.
 - 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 exceed 800 feet, turnouts shall be provided at no greater than 400 foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper on each end.
 - The surface of the driveways shall provide unobstructed access to conventional drive vehicles including sedans and fire engines. Surfaces shall be capable of supporting the imposed load of fire apparatus.
 - The grade for all driveways shall not exceed 15 percent. Where road grades exceed 8 percent, a minimum structural roadway surface thickness of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required.
 - Turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.
 - For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added.
 - Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. Where gates are to be locked, the installation of a key box or other acceptable means to immediate access for emergency equipment is required.

(CDF Fire District and Planning & Building Inspection)

21. 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

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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, S.C.)

22. Prior to final inspection, the geologic consultant shall provide certification that all development has been in accordance with the geologic report. (Planning & Building Inspection)
23. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning & Building Inspection)

PASSED AND ADOPTED this 28th day of May, 2003 by the following vote:

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

JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on

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

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.

22. Prior to final inspection, the geologic consultant shall provide certification that all development has been in accordance with the geologic report. **(Planning & Building Inspection)**
23. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning & Building Inspection)**

PASSED AND ADOPTED this 28th day of May, 2003 by the following vote:

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


JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on JUL - 7 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 JUNE 12, 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.

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NOES: None
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Copy of this decision mailed to applicant on

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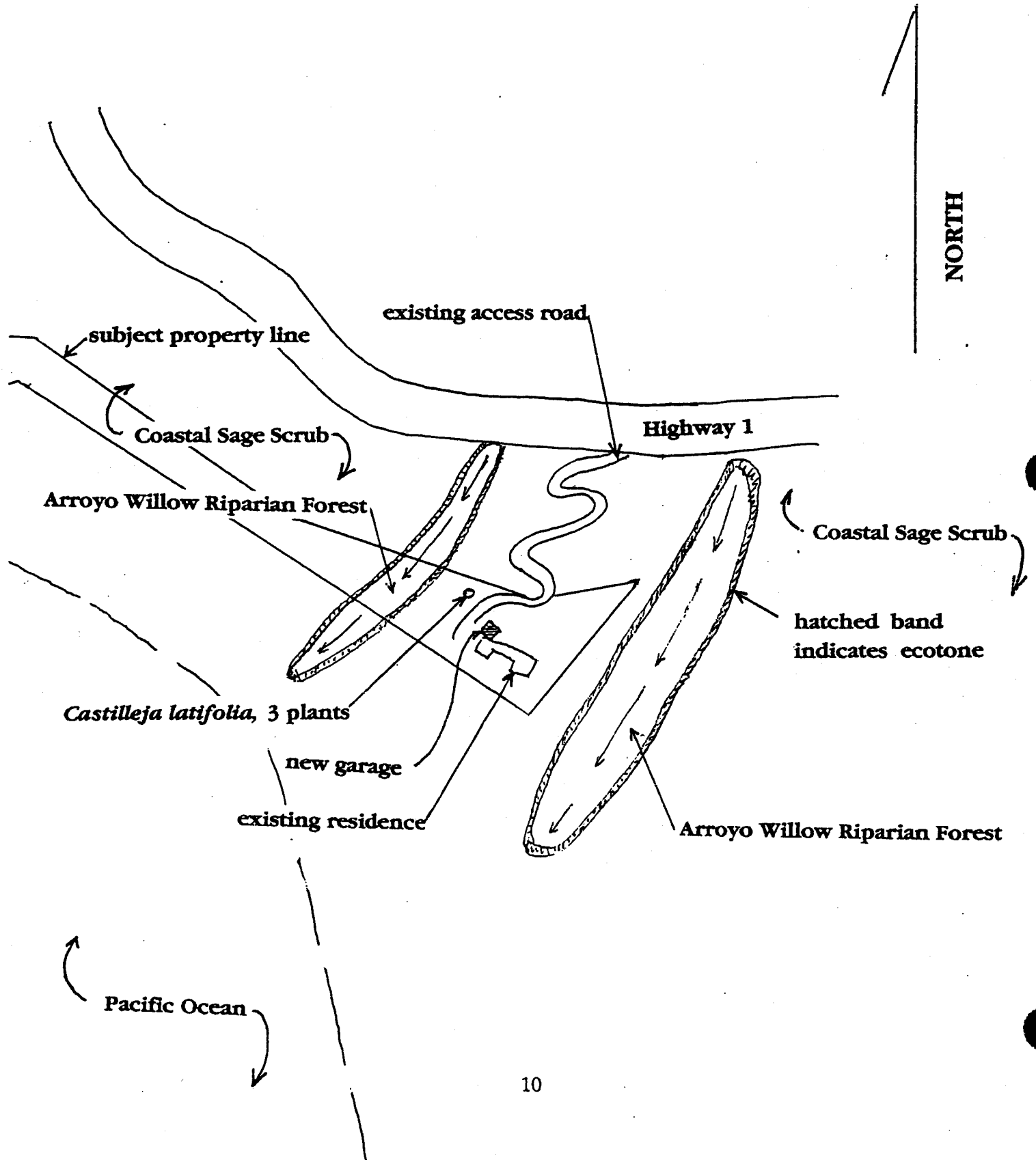
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BOTANICAL MAP (not to scale):

1" = 200'

EXHIBIT NO. 6
APPLICATION NO.
A-3-MC-03-066
BOTANICAL MAP



MC WETHY PROJECT



EXHIBIT NO. 7
APPLICATION NO.
A-3-MC-03-066
FIELD PROGRAM



EXHIBIT NO. 7
APPLICATION NO.
A-3-MCO-03-066
FIELD PHOTOGRAPH
PLATE 2

McMETHY



EXHIBIT NO. 7
APPLICATION NO.
A-3-MC0-03-066
FIELD PHOTOGRAPH
BY CCC STATE P. 2

MC METHY



EXHIBIT NO. 7

APPLICATION NO.

A-3-MC9-03-066

FIELD PHOTOGRAPH
BY CCC SOUT P 4