

CALIFORNIA COASTAL COMMISSION

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September 24, 2004

RECORD PACKET COPY

Thurs. 7a

TO: CALIFORNIA COASTAL COMMISSIONERS

FROM: PETER M. DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: STAFF RECOMMENDATION ON MAP OF POST-LCP CERTIFICATION
JURISDICTION, CITY OF CARMEL-BY-THE-SEA
(for Commission consideration at its October 13-15, 2004 meeting)

This recommendation was developed by Jonathan Van Coops, Darryl Rance, and Greg Benoit, Coastal Program Analysts, Mapping/GIS Unit, working under the direction of Susan Hansch, Chief Deputy Director and Manager - Technical Services Division.

SUBSTANTIVE FILE DOCUMENTS

- National Wetland Inventory Maps, U.S. Department of the Interior, Fish & Wildlife Service, *Monterey Quadrangle*, 1982
- Potential Public Trust Land Map No. 80 (*Monterey Quadrangle*), California State Lands Commission, 1979
- US Coast Survey map sheet T-1458a (1876)
- Coastal Commission 1: 12,000-scale vertical aerial photography 1970-2001
- California Coastal Records Project, 2003
- City of Carmel-by-the-Sea Local Coastal Program, California Coastal Commission, February, 2004

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the map prepared by staff showing the areas where the Commission retains permit authority pursuant to Public Resources Code Section 30519(b) and Section 30613, and where appeals of local government coastal development permit approvals are allowed pursuant to P.R.C. Section 30603(a)(1) and (2) within the City of Carmel-by-the-Sea.

MOTION

Staff recommends that the Commission adopt the following motion:

I move that, for the reasons stated in the staff report and recommendation dated September 24, 2004, the Commission approve the Post-LCP Certification Map prepared by staff for the City of Carmel-by-the-Sea.

BACKGROUND

After an LCP certification becomes effective, coastal development permit authority within that jurisdiction is largely delegated to the local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP certification, over developments occurring on tidelands, submerged lands, and public trust lands. As provided in Section 30613 of the Coastal Act, local jurisdictions may request that primary permit authority in areas subject to the public trust that are filled, developed, and committed to urban uses be transferred to the local government's jurisdiction. The City of Carmel-by-the-Sea has not made a Section 30613 request as of this date.

In addition to the retained permit jurisdiction, Section 30603 of the Coastal Act defines certain areas and types of development for which approvals by the local government may be appealed to the Commission. Appeal jurisdiction is retained, for example, over development that is within 100 feet of streams or wetlands, on lands subject to the public trust, within 300 feet of the top of the seaward face of coastal bluffs, and between the sea and the First Public Road paralleling the Sea or within 300 feet of the inland extent of the beach or the mean high tide line, whichever is greater. The Commission's regulations provide specific boundary determination criteria for both the geographic post-LCP certification permit and appeal jurisdiction areas. (*See 14 C.C.R. §13577*).

For jurisdictions with a certified local coastal program, the Commission adopts maps depicting where the Commission retains permit authority and where it has appeal jurisdiction. (*See 14 C.C.R. §13576(a)*). This "post-LCP certification map" is intended to assist local governments, applicants, and other interested persons determine jurisdictional issues, but does not supercede Sections 30519(b) and 30603(a) of the Coastal Act which define the Commission's retained original permit and appellate jurisdiction. If, by virtue of cartographic generalization, map scale, changed conditions, or compilation error, the map does not accurately depict conditions on the ground, the Commission's original and appellate jurisdiction is determined by reference to the requirements of the Coastal Act and Commission regulations. The Commission's regulations acknowledge that jurisdiction is ultimately determined by reference to the applicable statutory criteria by requiring post-LCP certification maps to state that the map "may not include all lands where permit and appeal jurisdiction is retained by the Commission." (*See 14 C.C.R. §13576(a)*). These maps may be updated from time to time when there are changed circumstances or where additional information becomes available indicating that the mapped

boundaries do not reflect the jurisdictional criteria established in the Coastal Act and the Commission's regulations.

Each map includes the following statement: "This map has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Section 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated where appropriate and may not include all lands where permit and appeal jurisdiction is retained by the Commission." (See 14 C.C.R. §13576(a)).

Previous Carmel-by-the-Sea Draft Post-LCP Certification Maps

During the early 1980's the Commission's Technical Services Division began a project to complete Draft Post-LCP Certification Permit and Appeal Jurisdiction maps for all local governments within or partly within the Coastal Zone. The first effort consisted of producing a set of 161 draft maps using the USGS 7.5 minute quadrangle base (scale 1:24,000 or 1 inch equals 2000 feet), and was completed in 1981. The primary purpose of this project was to provide a consistent, *statewide* view of the *draft* permit and appeal boundaries for review by the local government staff, Commission staff, and other interested parties. It was fully anticipated that these maps would be reviewed and revised or refined, as indicated by the map notes, and general correspondence sent out with maps for review. The area within the City of Carmel-by-the-Sea was covered by map sheet 80, the Monterey quadrangle. Copies of these regional quadrangle scale draft maps were distributed for review to the regional commission offices and local governments in April 1981.

In the mid-1980's a large-scale base map of Carmel-by-the-Sea was obtained from the City's planning department and a more detailed version of the Draft Post-LCP Certification Permit and Appeal Jurisdiction map was prepared. This draft map was produced in October of 1986 at scale of 1 inch equals 400 feet and depicted the boundaries in greater detail than the earlier USGS quadrangle version. The current draft map has been produced from digital map files and aerial photography provided by the City.

STAFF ANALYSIS

The depiction of permit and appeal jurisdiction on the Carmel-by-the-Sea draft post-LCP Certification map does not appear to present any areas of controversy affecting the map adoption at this time. Coastal Commission staff has reviewed the Carmel post-LCP Certification map and jurisdictional boundaries with staff of the City of Carmel-by-the-Sea, and has made edits that clarify and correct several elements of the appeal jurisdiction boundary (i.e., FPR, beach, and bluff locations).

Permit Jurisdiction

The geographic area of the Commission's continuing permit jurisdiction in the City of Carmel-by-the-Sea is delineated so as to include lands lying below Mean High Tide Line (MHTL) and potential public trust lands located along the Carmel-by-the-Sea City Beach between the northern and southern City boundary. The sources for the permit boundary as depicted on the draft post LCP Certification map are map number 80 from the 1:24,000 scale set showing potential public trust lands prepared for the Coastal Commission by the State Lands Commission staff, the historical US Coast Survey map T-1458a (1876), the contemporary USFWS National Wetland Inventory, and data submitted by the City of Carmel-by-the-Sea. These maps were used to map permit jurisdiction wherever the public trust component is the controlling boundary criterion; however, given the complexity involved in precisely mapping potential public trust boundaries, the delineation may not include all areas subject to the trust. Questions regarding the exact location and extent of public trust lands are referred to the State Lands Commission for determination.

Appeal Jurisdiction

The Coastal Zone extends inland approximately one mile in this part of Monterey County and follows the inland right-of-way of State Highway 1. The City of Carmel-by-the-Sea is located entirely within the Coastal Zone. The Commission's appeal jurisdiction areas in the City are generally found along the immediate shoreline and adjacent to bluffs, beaches, and intermittent streams. A relatively small portion of the City lies within an appeal area determined by reference to the location of the First Public Road paralleling the Sea. (*See Exhibit 3*).

As with all other coastal cities, the appeal jurisdiction boundary in Carmel-by-the-Sea is mapped according to the geographic criteria specified in Section 30603(a) of the Coastal Act, and further defined in the Commission's regulations at 14 C.C.R. §13577. Along the shoreline of the ocean, the appeal jurisdiction boundary generally follows the First Public Road, except where the road is situated closer than 300 feet inland from the bluff top or beach. In these locations the boundary is 300 feet from the top of the seaward face of the bluff or the inland extent of the beach, whichever applies. Farther inland, appeal areas are found along coastal streams and wetlands, where the boundaries include lands within 100 feet of the stream banks or upland wetland limits. (*See Pub. Res. Code §30603(a)(1), and 14 C.C.R. §13577(i)*).

First Public Road

The language of 14 C.C.R. Section 13577(i)(1) was intended to ensure that the designated "First Public Road Paralleling the Sea" (FPR) extend inland around water bodies that are considered the "Sea" as defined by P.R.C. Title 14, Section 30115. C.C.R. Section 13577 (i)(1)(E) provides that in order for a road to qualify as the First Public Road paralleling the Sea, it must be a road that "does in fact connect with other public roads providing a continuous public access system, and generally parallels and follows the shoreline of the "Sea" so as to include all portions of the

"Sea" where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the "Sea" to extend landward of the generally continuous coastline."

First Public Road Description

The series of roadways and streets listed below and shown as a component of the Commission's appeal jurisdiction boundary on the attached Exhibit 3, constitute the current route of the "First Public Road Paralleling the Sea," for purposes of Public Resources Code (P.R.C.) Sections 30600.5, 30601, and 30603, 30115, and all other applicable provisions of the Coastal Act of 1976. This system of coastal roadways and streets is consistent with and meets the criteria set forth in California Code of Regulations Section 13577, in particular 13577(i).

From the northern City boundary the route designated as the First Public Road paralleling the Sea (FPR) in the City of Carmel-by-the-Sea follows south along Lincoln Street to 3rd Avenue, west on 3rd Avenue to Monte Verde Street, north on Monte Verde Street to intersection with 2nd Avenue, southwest on and along 2nd Avenue to N. Casanova Street, south on N. Casanova Street to Palou Street, east on Palou Street to Monte Verde Street, south on Monte Verde Street to 4th Avenue, southwesterly on and along 4th Avenue to N. Camino Real, northwesterly on and along N. Camino Real to 2nd Avenue, southwest on and along 2nd Avenue to N. San Antonio Avenue, southeast and south on and along N. San Antonio Avenue to Ocean Avenue, west along Ocean Avenue to Scenic Road, south along Scenic Road to southern City boundary. The designated First Public Road meanders south and east through the residential area to the south of the City before re-entering the City at Lasuen Drive just west of the Carmel Mission, then follows Lasuen Drive northeast to Rio Road, and then southeast on Rio Road to its intersection with the City boundary at Atherton Drive.

NOTE

In some areas parcels are bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission decides to hear the appeal, then the Commission reviews the action of the local government (Section 30603(a)), which encompasses all the development that was authorized in the permit.

Due to the cost of reproduction, full-size copies of Exhibit 3, normally mailed to Coastal Commissioners and other interested persons, have not been included with the staff report. Reduced versions of Exhibit 3 have been included instead, and copies of the full-size map will be available for review both at the City of Carmel-by-the-Sea, and at Coastal Commission offices in San Francisco and Santa Cruz. Full-size maps will also be available for review at the October 13-15, 2004 Commission meeting in San Diego.

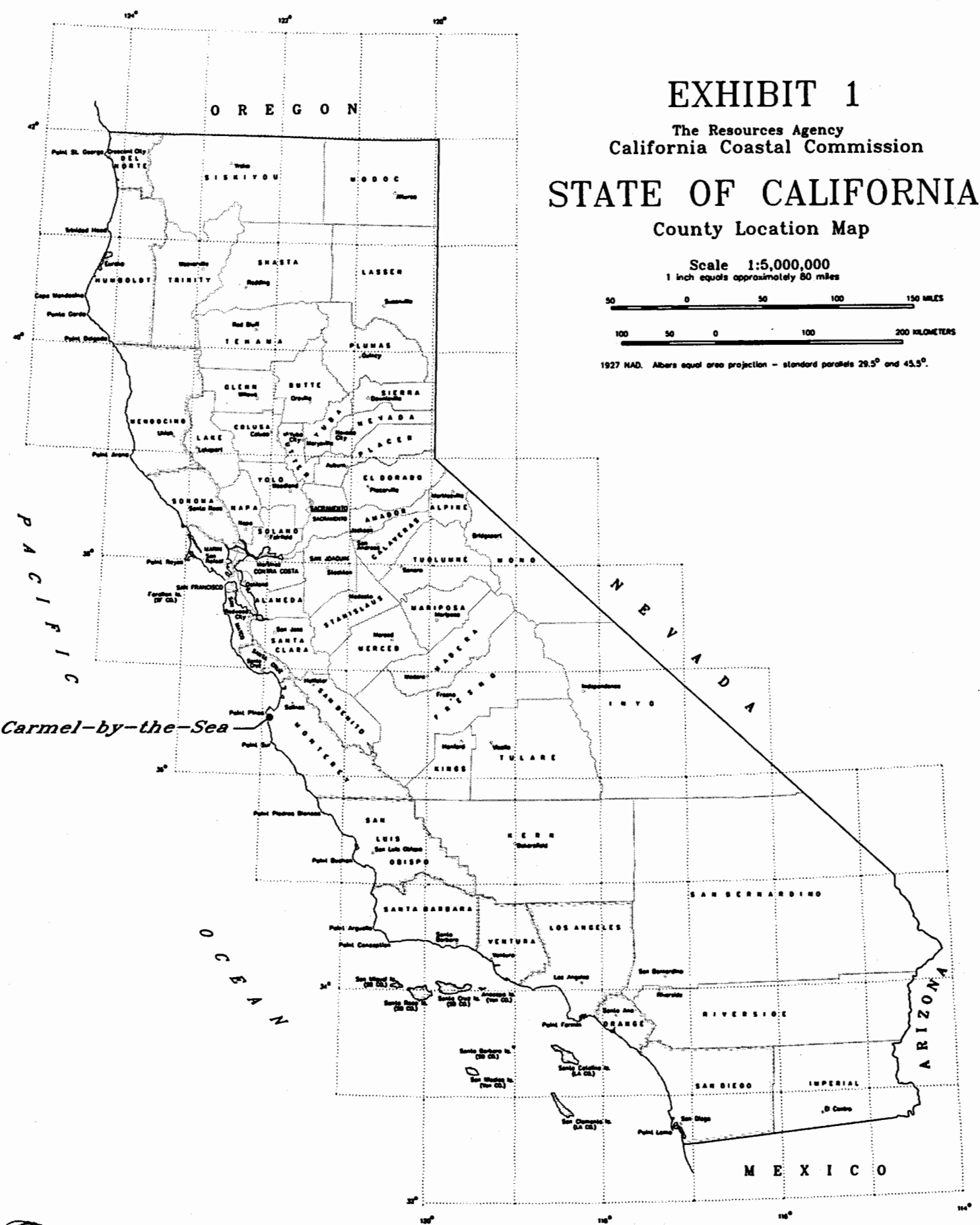


EXHIBIT 1

The Resources Agency
California Coastal Commission

STATE OF CALIFORNIA

County Location Map

Scale 1:5,000,000

1 inch equals approximately 80 miles

50 0 50 100 150 MILES

100 50 0 100 200 KILOMETERS

1927 NAD. Albers equal area projection - standard parallels 29.5° and 45.5°.

Carmel-by-the-Sea

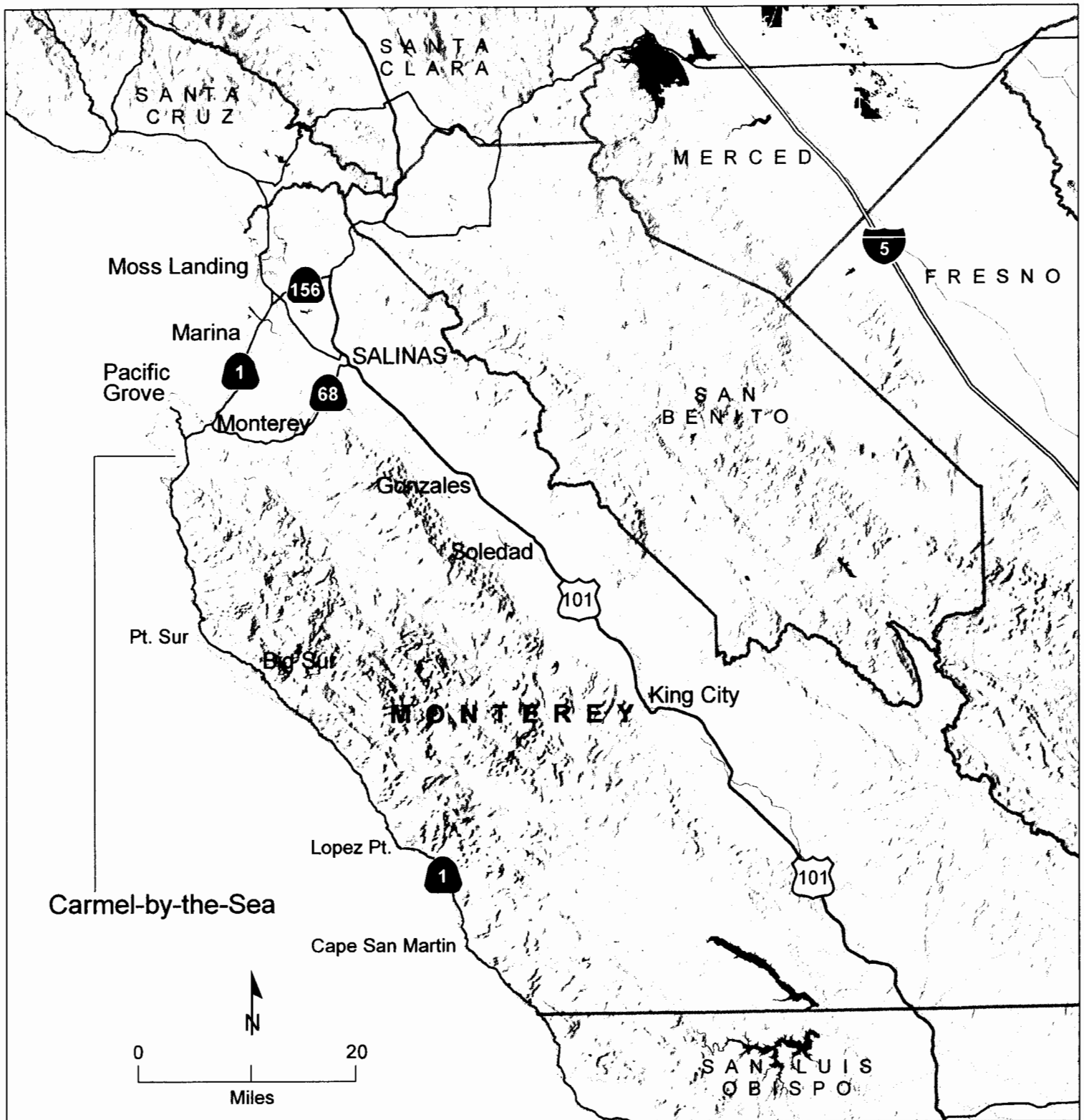
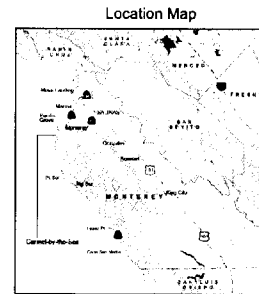
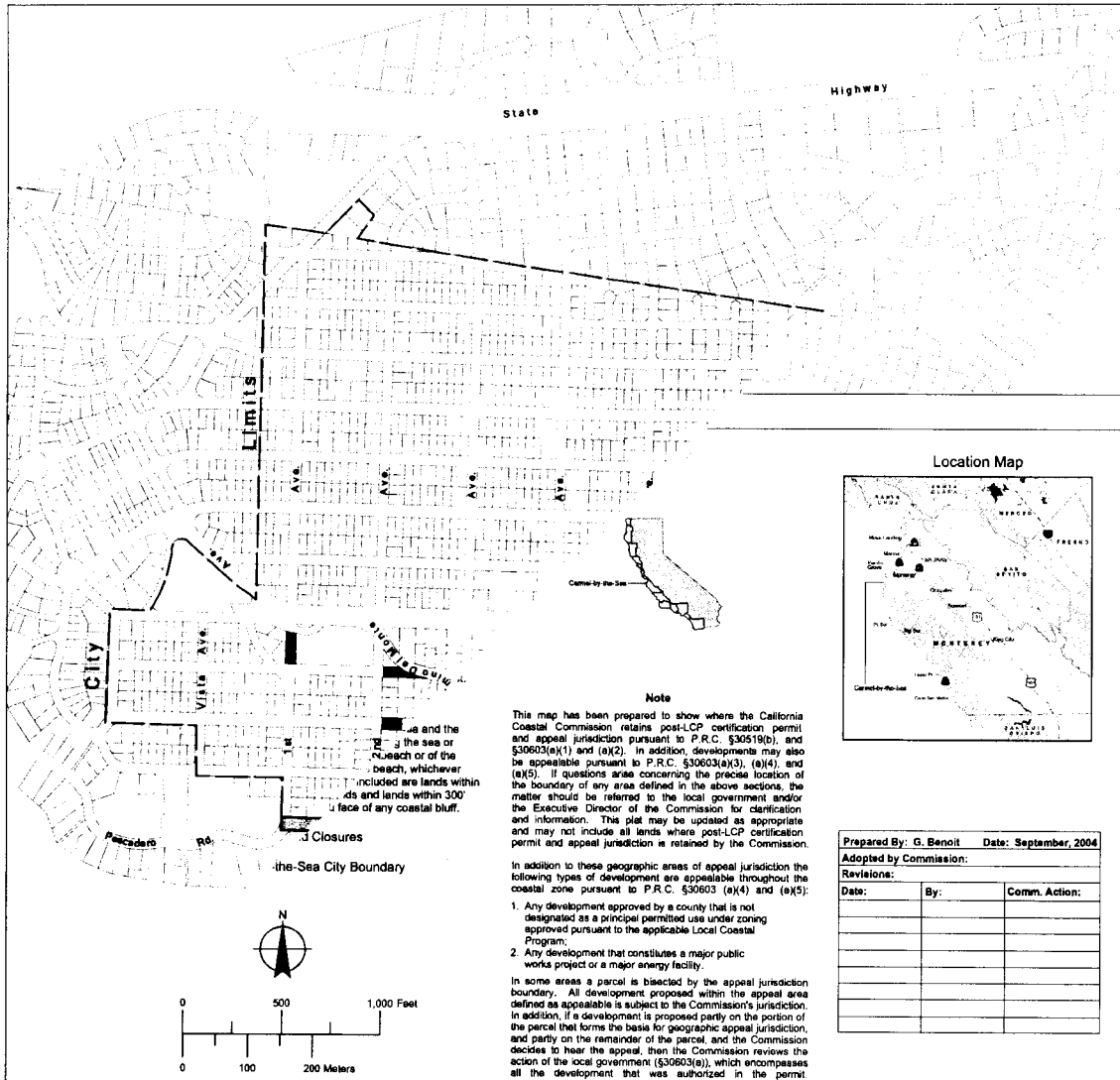


Exhibit 2
Vicinity Map
Carmel-by-the-Sea

CALIFORNIA
COASTAL
COMMISSION

REGULATORY AND JURISDICTIONAL BOUNDARIES



Prepared By: G. Benoit Date: September, 2004		
Adopted by Commission:		
Revisions:		
Date:	By:	Comm. Action:

DRAFT
CARMEL-BY-THE-SEA

Exhibit 3