

CALIFORNIA COASTAL COMMISSION

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Go to original staff report

F 5.1, 5.3, 5.5, and 5.7

ADDENDUM

June 13, 2013

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: ADDENDUM TO ITEM NO. F 5.1, 5.3, 5.5, AND 5.7 – CONSENT CEASE AND DESIST AND RESTORATION ORDERS (PARKER AND VENTANA) FOR THE COMMISSION MEETING OF **June 14, 2013**

I. Errata:

A. Changes to Staff Report for Consent Cease and Desist Orders CCC-13-CD-06 and -07 and Consent Restoration Orders CCC-13-RO-06 and -07:

Commission staff hereby revises the Staff Report for the Ventana and Parker Consent Orders. Language to be added is shown in **italic, bold, and underlined**.

1. On Page 21 of the Staff Report, line 16 shall be amended as follows:

“The damage includes... the alteration (**because of potential sedimentation**) of the waterways, as described in the Section V(D)(2)(a-b) above.”

B. Changes to Consent Cease and Desist Orders CCC-13-CD-06 and -07 and Consent Restoration Orders CCC-13-RO-06 and -07:

2. Staff notes that Exhibit 1a and b to Appendix B of the Staff Report (CCC-13-CD-07 and CCC-13-RO-07 - Ventana Consent Orders) regarding public access and informational signage will be supplemented as required by and

consistent with sections 12.0 and 12.2 of those orders. Commission staff hereby adds Exhibit 1c to Appendix B of the Staff Report, as shown on page 4 of this Addendum.

II. Documents Received:

1. *Letter from Rick Zbur, on behalf of Mr. Sean Parker, dated June 12, 2013.*
2. *Non-Interference Agreement between WTCC Ventana Investors V, LLC and Sean Parker and Neraida LLC.*
3. *Letter from Ventana Wildlife Society, Executive Director Kelly Sorenson, dated June 10, 2013, supporting the proposed Consent Orders.*
4. *Letter from Leslie F. Murdock, dated June 5, 2013, commenting on the proposed Consent Orders.*
5. *Letter from John S. Cluett, dated June 10, 2013, commenting on the proposed Consent Orders.*
6. *Letter from James Todd Bennett, dated June 5, 2013, commenting on the proposed Consent Orders.*
7. *Letter from Susan Waldorf, dated June 6, 2013, commenting on the proposed Consent Orders.*

III. Commission staff response to letter from John S. Cluett:

Mr. Cluett has expressed concerns about section 12.2 of the Ventana Consent Orders. He is concerned that the Ventana Consent Orders mischaracterize the signs that exist on the Coast Ridge Road Gate, and he explains why he believes the signs should remain, based upon a prior agreement between the US Forest Service and property owners located along Coast Ridge Road, beyond the gate. He provides an explanation of the history of how the US Forest Service obtained easements for public access across private property along Coast Ridge Road and why the existing signs have the noted language. Mr. Cluett contends that there is not a “No Trespassing” sign posted on the gate, and that no one intends to discourage pedestrian or equestrian use, consistent with an agreement between the US Forest Service and adjacent property owners. Mr. Cluett is also concerned with the proposed relocation of the portion of the Coast Ridge Trail that leads from Cadillac Flats to the Coast Ridge Road Gate. He is afraid it will encourage vehicular use. Finally, Mr. Cluett raises concerns about placement of signs on Highway One, and where signs will eventually be placed.

With respect to the existing signage and a prior agreement between property owners and the US Forest Service, it is not our intent to interfere with this agreement. Section 12.2 of the Consent Orders requires Ventana to use its best efforts and whatever is within its powers to secure removal of “No Trespassing” and other like signs that discourage public use that are placed on the Coast Ridge Road Gate or adjacent to the Coast Ridge Road Gate. If the language of the signs is consistent with the agreements reached between US Forest Service and the property owners, Ventana’s compliance with this section should not present conflicts with that prior agreement. However, there has apparently been

confusion in the past regarding the “no trespassing” sign, and it has been read to preclude pedestrian public access, as well, and revising and clarifying the signage provides an opportunity to correct the past problems.

Regarding the proposal to relocate the current portion of Coast Ridge Trail from the existing paved road and onto the land parallel to that road, and the width of that path, Commission staff respectfully disagrees with Mr. Cluett’s concerns that it would encourage vehicular use on the path. The design standards of the public trails will provide separation from vehicular use and the proposed relocation would remove the walking and horseback-riding public from the existing road used by vehicles and place them on a dirt path that parallels the road. The proposed relocation would afford more safety to the hikers and equestrian riders using Coast Ridge Trail, and would actually provide a trail more obviously pedestrian than is the current situation.

With respect to signage concerns, Commission staff is committed to working closely with Ventana concerning the sign to be placed on Highway One, as well as signage to be placed within Ventana’s property on trails within Ventana, so that the approved signs accurately reflect the public’s rights to the property (and the limits thereof) and resemble and conform to current and proposed signage types in the Big Sur area.

Finally, although not in Mr. Cluett’s letter, Commission staff has been informed that there are concerns over the placement of the California Coastal Trail (“CCT”) emblem on trail markers, pursuant to Section 12.2 of the Ventana Consent Orders. Commission staff is aware of the important planning process underway in Big Sur to locate the CCT, and it is not the intent of the Consent Orders to conflict with that planning process. Through the Consent Orders, sign emblems demarcating the CCT will be in place until the planning committee reaches a final decision on the location of the CCT, and if a new CCT trail/sign is designed, Commission staff will work with all stakeholders to replace the sign emblems placed pursuant to the Ventana Consent Orders once such a final decision occurs.

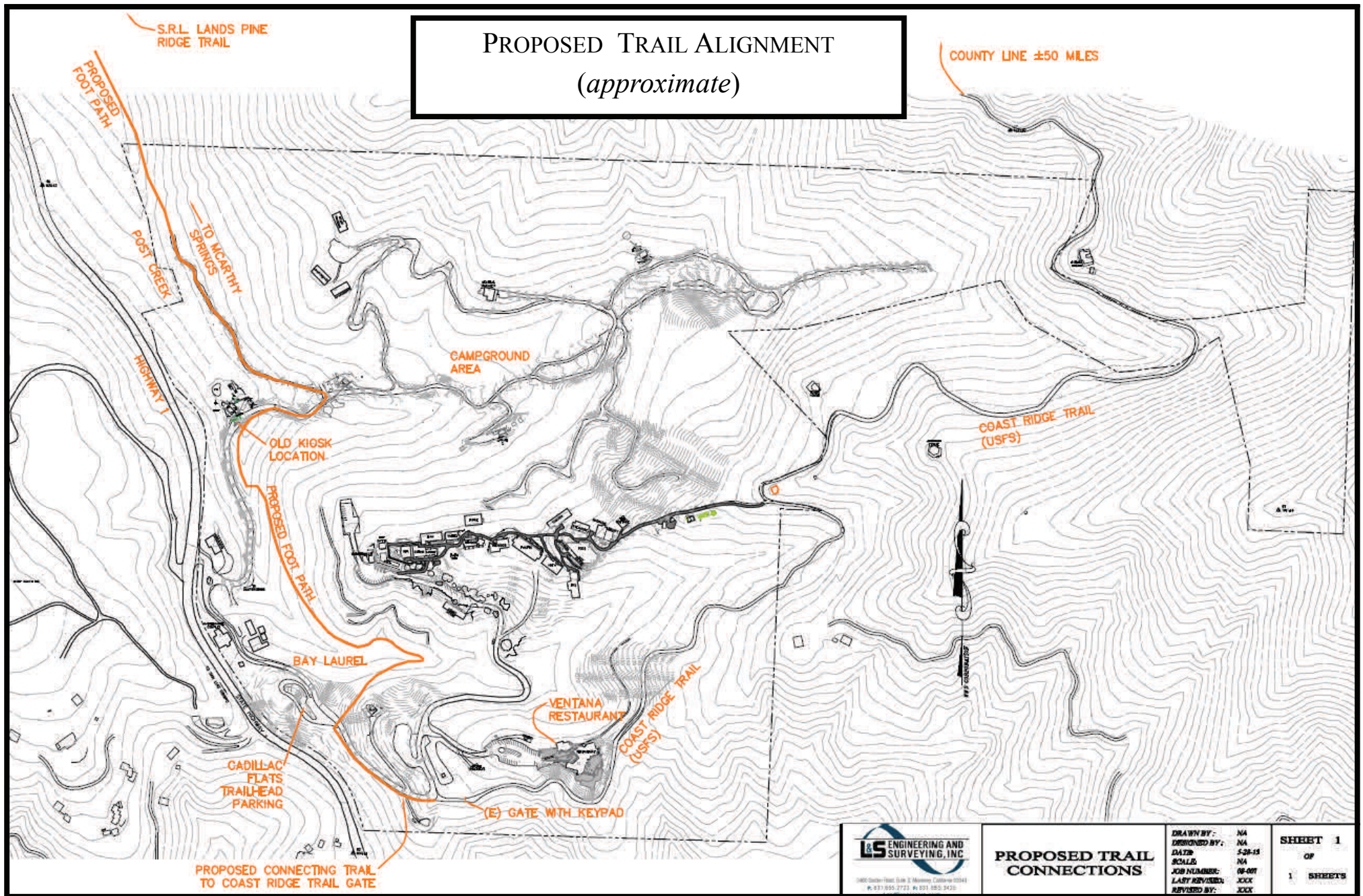


Exhibit 1c (to Appendix B)

CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

LATHAM & WATKINS LLP

June 12, 2013

VIA EMAIL AND U.S. MAIL

Chairperson Shallenberger and Honorable Commissioners
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

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Agenda Items Fr5.1&5.3

Re: Consent Orders for Mr. Sean Parker Wedding (Order Nos. CCC-13-CD-06 & CCC-13-RO-06)

Dear Chairperson Shallenberger and Honorable Commissioners:

We are writing on behalf of our clients, Mr. Sean Parker and Neraida, LLC, in support of the June 3, 2013 Staff Report and Staff's recommendations regarding Consent Order No. CCC-13-CD-06 and Restoration Order No. CCC-13-RO-06.¹ We appreciate Commission Staff's efforts to bring these Orders to the Commission to resolve these issues and to ensure that the work undertaken at the Ventana Inn & Spa campground in connection with the Parker's wedding is removed carefully, in a manner that complies with rigorous Coastal Commission protective protocols, and as quickly as possible.

In light of significant media attention, we want to correct false and inaccurate press reports in three general areas.

First, some media reports have falsely and inaccurately characterized the wedding activities as having bulldozed a redwood grove. The reality is that all of the work done at the site in connection with the wedding occurred within a developed campground area. All of the wedding elements were intended to be temporary and designed so that they could be removed quickly after the event and the site returned to its pre-wedding condition. The campground is an existing disturbed site with asphalt and dirt roads, parking areas surfaced with road base, and approximately 75 densely sited campsite areas that have been cleared of vegetation and are

¹ As is the typical practice, Mr. Parker and Neraida's settlement and execution and support of the Consent Orders does not constitute an admission of violation. However, in the event the Consent Orders are adopted, the Consent Orders provide that Mr. Parker will not challenge the basis for issuance of the Consent Orders.

LATHAM & WATKINS LLP

generally flat so that vehicles and campers can park and have access. The site was selected in part because there were cleared areas without plant habitat in which the wedding elements could be located.

Contrary to the false press reports, **all the work that occurred on the campground site occurred on areas that were either paved or unpaved roads, parking lots, or cleared campsites. Not a single tree was removed, and no plant understory was impacted,** because, again, the wedding elements were isolated to cleared roads, parking lots, and campsites. As part of the Consent orders, Mr. Parker has committed to implementing rigorous Coastal Commission protective protocols to assure that the wedding elements are removed carefully and in a manner that protects the redwoods and the stream.

Second, as soon as Mr. Parker had any understanding that the Coastal Commission had permitting jurisdiction over the campground area and that his wedding preparations raised potential permitting issues, he took immediate action to work cooperatively with the Coastal Commission staff. He quickly provided information to Commission Staff regarding site conditions and the wedding preparations, implemented additional protective measures to further protect the redwood trees and the stream, and worked cooperatively to reach a resolution which would provide significant conservation, public access and conservation education benefits in the Big Sur and surrounding areas.

When Mr. Parker entered into a Use Agreement with the catering operation at the Ventana Inn & Spa, he did so because he believed that the campground was a commercial enterprise which was part of the hotel and because the campground was offered by the hotel as a site for his wedding. In part because Mr. Parker is not a property owner in the California Coastal Zone, neither he nor his contractors had any idea that the Coastal Commission had permitting jurisdiction over the campground, or that the hotel might need permits from the Coastal Commission for the temporary wedding elements that were planned at the campground, and no one at the hotel informed them of any such jurisdiction.

It was not until about three weeks before the wedding that Mr. Parker and his contractors learned about the Coastal Commission's jurisdiction over the site, when Nancy Cave telephoned the hotel informing it of the enforcement inquiry with respect to the campground and the Coastal Commission's reserved jurisdiction over the site. From that point on, Mr. Parker worked expeditiously and cooperatively to provide information about site conditions, to implement protective measures requested by Commission staff and to enter into the resolution that you are considering today.

Third, the media has mischaracterized the reason for the magnitude of the payments that are proposed to be made by Mr. Parker to the Commission and to non-profit groups to support coastal access, conservation, and education programs. **The monetary portion of Mr. Parker's settlement covers Mr. Parker's and the Ventana Inn & Spa's alleged actions and inactions with respect to the wedding and the campground's closure.**

Because Mr. Parker had entered into an indemnity in favor of the hotel that obligated him to cover costs and expenses related to the wedding, including penalties that were attributable to

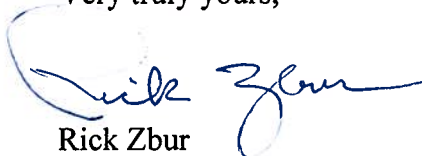
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the hotel's actions or inactions related to the wedding, Mr. Parker offered financial payments aggregating to \$2.5 million to cover potential penalties that would have been attributable to the hotel related to the wedding and the campground closure. Even though the hotel concedes that Mr. Parker had nothing to do with the campground closure, the hotel asserted that the Coastal Commission's enforcement focus on the campground closure had been brought to light by the wedding and therefore was subject to the indemnity agreement. Although Mr. Parker does not necessarily agree that the indemnity is as broad as the hotel asserts, he decided to offer an amount that was substantial enough to cover the hotel's alleged actions or inactions in both areas, in order to facilitate a full settlement of all issues related to the wedding and the campground closure.

Mr. Parker was willing to enter into the monetary settlement covering both parties because he wanted to assist in reaching the comprehensive resolution desired by your staff. In addition, Mr. Parker is dedicated to working with your staff to assure that the \$1.5 million to non-profit organizations that provide lower-cost access and recreation opportunities and conservation of coastal resources in Big Sur and the Commission's North Central Coast District will be very successful, and that the \$1 million directed to the Commission will support the Commission's efforts to preserve California's precious coastal zone.

We appreciate Commission Staff's hard work in proposing a resolution of the issues raised in connection with Mr. Parker's wedding that will, if adopted, provide significant benefits to coastal conservation, conservation education and public access. We respectfully request adoption of the Consent Orders.

Very truly yours,



Rick Zbur
of LATHAM & WATKINS LLP

NON-INTERFERENCE AGREEMENT

This Noninterference Agreement ("Agreement") is entered into by and among WTCC Ventana Investors V, LLC ("Owner"), on the one hand; and Sean N. Parker and Neraida LLC, (collectively, "Parker"), on the other. Owner and Parker are collectively referred to as the "Parties."

In consideration for Parker's efforts to effectuate removal of unpermitted development from Owner's property at the Ventana Inn (the "Property") pursuant to CCC-13-CD-06 and CCC-13-RO-06 (the "Parker Consent Orders"), Owner hereby agrees not to impede Parker's ability to access and perform work on the Property, as necessary, after the June 1, 2013 wedding between Sean Parker and Alexandra Lenas, to restore the Property as required by the Parker Consent Orders and, if required, to monitor the effectiveness of such restoration. The Parties agree that all work using mechanized equipment required by the Consent Orders shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless otherwise directed by California Coastal Commission staff or unless reasonably necessary to comply with the compliance periods set forth in the Consent Orders .

This Agreement may be executed in counterparts, each of which shall be considered a duplicate original.

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

All Parties to this Agreement represent and warrant that they have been afforded adequate opportunity to and have in fact reviewed the contents of this Agreement with counsel of their own choosing and accept the terms and conditions hereof based upon such advice of counsel.

[Signatures on following page.]

WTCC VENTANA INVESTORS V, L.L.C.

By: Justin Leonard
Its: Vice President

SEAN N. PARKER



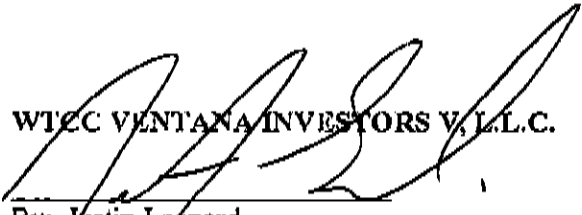
By: Sean N. Parker

NERAIDA LLC



By: Helen Wolff
Its: Secretary

Paul Hastings, LLP 6/11/2013 5:54:35 PM PAGE 2/003 Fax Server


WTEC VENTANA INVESTORS V, L.L.C.

By: Justin Leonard
Its: Vice President

SEAN N. PARKER

By: Sean N. Parker

NERAIDA LLC

By: Helen Wolff
Its: Secretary

VENTANA WILDLIFE SOCIETY

Conserving Native Wildlife and their Habitats

19045 Portola Dr., Ste. F-1
Salinas, CA 93908
P 831-455-9514
F 831-455-2846
www.ventanaws.org

June 10, 2013

Charles Lester
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: CCC-13-RO-06 (Parker)

Dear Mr. Lester,



On Wednesday, June 12, the Commission will consider Restoration Order CCC-13-RO-06 which pertains to a reserve and earmark of funding in the amount of \$1,500,000 for conservation projects or public access programs in Big Sur, which will be paid by Mr. Sean Parker. We applaud the efforts of the Commission in finding this creative solution to the unpermitted activities described in the restoration order.

I understand that a restoration plan, including names of grantees and projects involved, will be required of Mr. Parker and that you and Mr. Parker must come to an agreement on how these funds will be spent to better the Big Sur community. Therefore, I respectfully request that you provide a copy of this letter to Mr. Parker and consider funding the following two important conservation projects in Big Sur.

Outdoor Youth Education

Ventana Wildlife Society developed an outdoor youth education program in the 1990's which now provides opportunities for over 400 youth annually, roughly two-thirds are from underserved areas in Seaside and Salinas. We average 23 contact hours per student which often increases affinity to nature by the conclusion of the program. We manage two vans to overcome the hurdle of lack of transportation and utilize our strong network of partners to link youth to nature, and in particular to Big Sur.

The demand for our services is ever-growing due to our successful partnerships and proven programs and unfortunately, no shortage of youth with little to no access to coastal areas. In order to keep up with this demand, we envision hiring an additional, full-time educator to facilitate meaningful, outdoor youth programming along the Big Sur Coast. The total estimated cost (above current budget) is \$150,000 over two years.

California Condor Restoration

We began releasing captive-bred condors to the wild in 1997 and have since established a population in central California. The Big Sur Coast, in fact, hosts a growing number of wild condors that attract visitors from around the world to the coastal zone in search of a glimpse of this magnificent and highly endangered bird. Ventana Wildlife Society is a member of large collaboration among federal, state, local agencies and NGO's but is the only nonprofit organization in California releasing condors to the wild.

While condors are now breeding in Big Sur, they remain vulnerable to lead toxicity which is primarily from the ingestion of lead ammunition found in their food (they are obligate scavengers). Ironically, the majority of the problem appears to be coming from inland areas, such as in San Benito County, where lead ammunition use remains frequent despite an existing ban. In Big Sur, on the other hand, the treat of lead poisoning is very low and potentially offers one of the only places on earth where condors can survive without human intervention. Therefore, there is a growing need to encourage condor activity on the coast to minimize the treat of lead poisoning to free-flying California condors.

Ventana Wildlife Society has the experience and expertise to fulfill this need through a combination of establishing additional feeding areas strategically located near naturally occurring foods (ie. marine mammal haul-out sites) as well as the permits and equipment to trap and relocate condors from problem areas and re-release into Big Sur. Overtime, condors are expected to utilize the landscape on a broader scale but until lead ammunition use is significantly curtailed, this effort to encourage coastal use by condors will remain a priority. We can easily take on this additional effort with two just two new field biologist positions and vehicle costs, estimated to be \$250,000 over two years.

Ventana Wildlife Society has a full-time staff of 12 and governing board of 10 with a mission of conserving native wildlife and their habitats through science, education, and collaboration. Please consider helping us to further serve these two growing needs in the Big Sur community. If you have any questions or wish to discuss further, please call me at 831-455-9514 or by email at kellysorenson@ventanaws.org.

Sincerely,



Kelly Sorenson
Executive Director

Ms. Madeline Cavalieri
District Manager
California Coastal Commission

Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

FAX (831) 427-4877

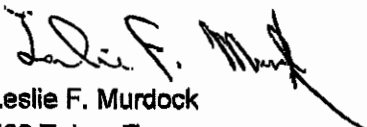
Ventana Settlement

Dear Mr. Carl and Ms. Cavalieri,

As part of your settlement with the Ventana Inn related to the Sean Parker wedding may I suggest that a settlement provision be that the Ventana Campground be reopened to the public for vacation camping from May to October.

This would provide affordable vacation accommodation in the Big Sur area and be a financial boost to local businesses. Also this is one of the most pristine places for camping and it is such a loss that it is no longer available to the public.

Thank you for your consideration


Leslie F. Murdock
580 Tahoe Terrace
Mountain View, CA 94041

650 440 0233
lfmurdock@yahoo.com

RECEIVED

JUN 05 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

AGENDA ITEM 5.7
JUNE 14, 2013
CLUETT
+ EXHIBITS A-E

John S. Cluett

PO Box 33

Big Sur, CA 93920

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

June 10, 2013

Dear Commissioners:

Thank you for this opportunity to express some concerns shared by me and my neighbors on the North Coast Ridge Road arising from the proposed Consent Restoration Order No. CCC-13-RO-07, Agenda Item 5.7 of the June 14, 2013 meeting.

My primary concern is the order to remove the signs on the North Coast Ridge Road gate, in language which reflects a misreading of those signs and an apparent lack of awareness of the easement deed that required the United States Forest Service to erect and maintain them.

I bought and moved onto a property on the North Coast Ridge Road in Big Sur in 1977. I was married there, and we raised two children there. When I arrived the historic use of the North Coast Ridge Road was unique in that while it is a USFS designated road, portions of it crossed through 15 separate parcels of private property, on some of which the United States never acquired rights-of-way. Even though there was no legal easement for the public or even the USFS to use the road, never to my knowledge has anyone ever interfered or sought to interfere with the vehicular use of the road by the USFS and their licensees, or the hiking and equestrian use of the road by the general public. The only restriction on the general public's use of the road had been, and continues to be, against vehicular use.

In the early 90's I approached the USFS on behalf of the property owners with an offer to donate a public easement across our portions of the road. This was my idea, done entirely on my own initiative. I believed it was the right thing to do, not only to clarify and accommodate the different interests of the USFS, its licensees, the property owners, and the general public, but also to preserve and protect the North Coast Ridge itself. I worked very hard for a long time using my own funds to organize the support of all 26 affected landowners, the USFS and their licensees to come to an agreement that accommodated everyone's concerns (see Exhibit A). With the signing of the "Non-Exclusive Limited Easement Deed for a Road and Trail", dated May 21, 1993 (Exhibit B) the complex issues regarding the use of the road by all parties were hopefully settled for all time. The property owners donated a road (vehicular) easement to the USFS, its contractors and licensees, and a trail (hiking and equestrian) easement to the general public. (Easement, Section 2, sub a and b). Thus the suggestion that anyone is trying to discourage the general public from enjoying full and free access on the trail is not only false but personally offensive. A condition of the donation of the public easement was a restriction, supported by all the parties, that the public not be allowed to use vehicles of any kind on the road. Anyone who has traveled this precipitous, one-lane, four-wheel drive track should understand that to allow public vehicles to intermingle with hikers and equestrians would be fatally irresponsible.

As well, the statement in Section 12.2 sub)10. that there are "'No Trespassing' and other like signs that discourage public access to public lands or public rights-of-way that are located on and/or near the Coast Ridge Road Gate" is both incorrect and misleading. There is not now, nor to my knowledge has there ever been, any "No Trespassing" sign on or near the gate. The only public access that is discouraged is vehicular access. Of the 3 signs at the gate the first - erected by the USFS at least 40 years ago - reads "Narrow dangerous road built for fire protection and forest

administration only. Closed to public VEHICLES (emphasis added) by right of way restrictions of private land owners"(Exhibit C). The second sign was also erected by the USFS in 1993 under the terms of the easement, in which they agreed to "place signs stating that the general public is not allowed to use any mountain bikes, bicycles, or motor vehicles (including, without limitation, motorcycles) on the Road, nor shall the general public be permitted to discharge firearms on or across the Road, and that violation of such rules is subject to citation" and to "enforce the restrictions imposed herein on the use of the Road." (Easement - Section 5). The text on the sign reads "Restricted Use. The following activities are prohibited by unauthorized personnel on Road 20S05. North Coast Ridge Road: Use of or being on the road with a MOTOR VEHICLE OR BICYCLE (emphasis added)..."(Exhibit D). The third sign, posted after numerous incidents of vandalism to the signs and gate, warns against "disabling or tampering with this gate." (Exhibit E). While it should be obvious these signs do not discourage public access to public lands, we would be happy to work with the parties to make them more clearly worded, better located, more aesthetic, etc. as long as they continue to comport with the requirements of the Easement. We also request that Ventana Inn provide employee training to ensure that guests and visitors receive correct advice regarding the use of the road and trail.

Another concern is the minimum 5' wide trail extending from Cadillac Flats to the gate ordered in Section 12.1 A. At that width it might encourage the very vehicles disallowed on the road. And will there be any sort of physical impediment to prevent those vehicles from driving around the gate? Does it make sense to build this trail on slopes far in excess of the 30% limit in order that its users avoid a road which they will rejoin in just a few hundred feet?

Signs on Highway One have historically been discouraged as being out of character with the natural beauty of Big Sur. Even the Big Sur Station - the main public trailhead and parking area for the Ventana Wilderness - does not have the degree of signage you are calling for. I am concerned that another sign on Highway One sets a precedent for placing signs at every hiking trail and point of interest up and down the Big Sur coast, adding man-made clutter that diminishes its majestic beauty.

The order directs the California Coastal Trail emblem be included on the trail signs (12.2) and the guide (12.3), yet I understand the working group in Big Sur is still far from a decision on which alignment the Trail will take. I encourage you to involve the USFS should the route ultimately follow the Coast Ridge Trail through their lands.

Sincerely,

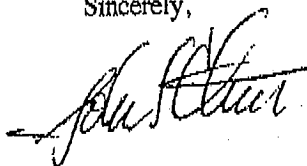


EXHIBIT A



United States
Department of
Agriculture

Forest
Service

Los Padres
National
Forest

6144 Calle Real
Goleta, CA 93117
(805) 683-6711

Reply to: 5460

Date: March 7, 1995

John S. Cluett
P. O. Box 33
Big Sur, CA 93920

Dear Mr. Cluett:

Your executed easement deed for that portion of North Coast Ridge Road that crosses your property is enclosed. On behalf of the Forest Service and the staff of the Los Padres National Forest, I want to thank you for your cooperation in making this limited right-of-way a reality.

We have also enclosed copies of the easement deeds for the other North Coast Ridge Road grantors. We regret the delay in mailing the deeds to you. We wanted to have all the signed easement deeds in hand before mailing copies to each landowner along the road. However, there are still two landowners who have not returned their signed deeds so the package you are receiving is two deeds short. We will forward copies of their signed deeds to you when we receive them.

As you are aware, the Forest Service acquired access rights-of-way across several of the private parcels along North Coast Ridge Road from previous owners. When negotiating with the current landowners along the road, we agreed that the Forest Service would quitclaim these previous rights-of-way easements to the present owners of record. The quitclaim deeds will be processed.

Mr. Cluett, I want to extend my special thanks to you for your active role in solving the issue of access on North Coast Ridge Road. All of us involved in this endeavor are grateful for your outstanding efforts in representing all the landowners interests, and for the many phone calls and mailings made at your personal expense that kept everyone advised on our progress. I have also extended my thanks to Michael Freed for his legal assistance and for the many hours spent working with you and Richard Flynn in responding to the concerns of the landowners.

I hope you will agree that our efforts were worthwhile and that the landowners and the permittees will benefit by having assured access on North Coast Ridge Road, as well as providing public trail access into the Ventana Wilderness.

Sincerely,

DAVID W. DAHL
Forest Supervisor

Enclosures

cc: MRD District Ranger



Caring for the Land and Serving People



EXHIBIT B (1 of 3)

REEL 2983 PAGE 721

All of the above-mentioned parties, hereinafter collectively called "Grantor", to the United States of America, hereinafter called "Grantee". All of the above-mentioned references to recording data are found in the Official Records of the County of Monterey, State of California.

WITNESSETH;

1. Grantor for and in consideration of the grant of reciprocal easements noted herein, does hereby grant to Grantee and its assigns, a non-exclusive easement for a road, commonly known as the North Coast Ridge Road, and trail thereon, herein called the "Road", located over and across the following described lands, hereinafter referred to as the "Premises", in the County of Monterey, State of California;

MOUNT DIABLO MERIDIAN

T. 19 S., R. 2 E.,
secs. 32, 33, and 34.
T. 20 S., R. 2 E.,
secs. 1, 2, 3, and 12.
T. 20 S., R. 3 E.,
secs. 7, 8, 16, 17, N1/2 of Sec. 21, 22, 26, 27, 35, and 36.

excepting from all the above described lands any lands not described in the above-mentioned Reel and Page references of the Official Records of Monterey County, California.

2. The non-exclusive easement hereby granted is for the maintenance, and full, free and quiet use and enjoyment of a Road and trail for the following purposes:

a) the non-exclusive trail easement shall be for the purposes of hiking and/or equestrian uses by the general public; and

b) the non-exclusive road easement shall be for the purposes of administrative use by (i) the acquiring agency, the Forest Service, United States Department of Agriculture (the "Forest Service"), and its contractors who have written contracts with Grantee, and (ii) the holders of special use authorizations issued by Grantee or their successors in interest for the uses presently authorized, listed on Exhibit A attached hereto (the "Licensees").

The vehicular use of the Road by the Grantee and its Licensees shall not be increased beyond the current level.

3. If Grantee desires to issue special use authorizations for any new or additional uses to those listed on Exhibit A, or desires to substantially increase its current level of use of the Road, Grantee shall obtain the prior written consent of Grantor. As the current special use permits are renewed in the name of the present permittees or their successors for the uses presently authorized, the Forest Service shall notify a designated representative of

EXHIBIT B (2 OF 3)

REEL 2983 PAGE 722

- Grantor, whose name has been provided to Grantee, of the renewal or issuance of the special use authorization and the name of the successor.
4. The location of the Road is shown on the map attached hereto as Exhibit B over and across the Premises herein above described. The legal description for the road is shown on Exhibit C. The width of the easement shall be 20 feet, 10 feet on each side of the center line, or more if necessary, to accommodate cuts and fills.
5. Grantee shall place appropriate signs on the easement related to the use of said easement, which signs shall be reasonably maintained. Grantee shall place signs stating that the general public is not allowed to use any mountain bikes, bicycles, or motor vehicles (including, without limitation, motorcycles) on the Road, nor shall the general public be permitted to discharge firearms on or across the Road, and that violation of such rules is subject to citation. The right to use the Road is restricted to United States Forest Service personnel, its contractors, Licensees, and those owners of properties which are contiguous with the Road or which have established rights-of-way over such properties. Grantee has the right to and shall, as far as is reasonably possible, enforce the restrictions imposed herein on the use of the Road.
6. The acquiring agency is the Forest Service, United States Department of Agriculture.
7. Grantee shall be responsible for road maintenance necessary for use of the Road by the Forest Service. The Forest Service may authorize holders of special use authorizations issued by the Grantee to perform maintenance necessary for the use of the Road. If Grantor wishes to maintain the Road to a higher standard than needed by the Forest Service or its special use permittees, the Grantor may do so but the Forest Service or its special use permittees shall not have to pay for any increased cost of a higher road standard. Grantee shall require all licensees to execute a cooperative road maintenance agreement as a condition to renewal or issuance of any special use authorization. Grantor shall have no obligation, financial or otherwise, to maintain the Road.
8. Locks that Grantee installs on any gates located over the Road shall be specially made for the use of this easement. The keys, duplication of which shall be restricted to the manufacturer, shall not be operable by the keys in general use by Grantee. Said locks are the property of the United States and may not be removed without the permission of Grantee.
9. Grantor reserves the right to make any use of the subject easement, which will not unreasonably interfere with the rights granted herein.
10. Grantee hereby grants to Grantor a reciprocal easement over the existing Road within the subject 20-foot easement area for a right-of-way over Grantee's lands, now owned or hereafter acquired, to the extent necessary to reach such Grantor's property. The easement granted by Grantee is for the full, free and quiet use and enjoyment of the road or roads for vehicular access and utility purposes. The width of the easement shall be 20 feet, 10 feet on each side of the center line, or more if necessary, to accommodate cuts and fills.

EXHIBIT B (3 OF 3)

REEL 2983 PAGE 723

11. Each of the parties comprising Grantor hereby grants an easement for vehicular access and utility purposes over his or her own lands, to each other party comprising Grantor who owns property contiguous with the Road (or, who has an easement over property contiguous with the Road), to the extent necessary to reach such party's property. The width of the easement shall be 20 feet, 10 feet on each side of the center line, or more if necessary, to accommodate cuts and fills.
12. Any improvements (or replacements thereof) presently existing within the easement area shall be permitted.
13. If the Regional Forester determines that its non-exclusive limited road and trail easement, or any segment thereof, is no longer needed, the road and trail easement traversed thereby as it applies to the Forest Service and its Licensees, shall be terminated. The termination shall be evidenced by a statement in recordable form furnished by the Regional Forester to Grantor, or its successors or assigns in interest. The rights in the easement granted to Grantor and in the easements granted among the parties comprising Grantor shall remain in effect until terminated by said parties.
14. This document may be executed in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to form one document which may be recorded.
15. IN WITNESS WHEREOF, Grantor and Grantee have executed this Easement Deed on the day and year first above written.

EXHIBIT C

LOS PADRES NATIONAL FOREST
2005 COAST RIDGE ROAD
NARROW DANGEROUS ROAD BUILT FOR FIRE
PROTECTION AND FOREST ADMINISTRATION
ONLY. CLOSED TO PUBLIC VEHICLES BY
RIGHT OF WAY RESTRICTIONS OF PRIVATE
LAND OWNERS

EXHIBIT D

RESTRICTED USE

THE FOLLOWING ACTIVITIES ARE PROHIBITED BY UNAUTHORIZED PERSONNEL ON ROAD 20S05, NORTH COAST RIDGE ROAD:



USE OF, OR BEING ON THE ROAD WITH A MOTOR VEHICLE OR MOTORCYCLE



A violation of 36 CFR 261.54(a) & (e).



DISCHARGE OF FIREARMS OR ANY OTHER IMPLEMENT CAPABLE OF TAKING HUMAN LIFE, CAUSING INJURY OR DAMAGING PROPERTY.

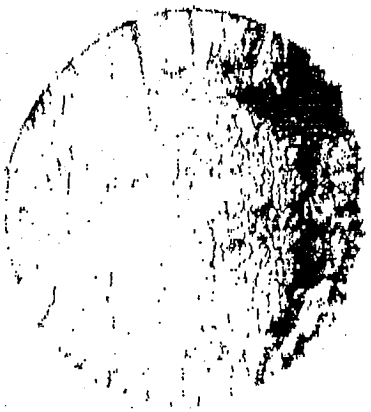
A violation of 36 CFR 261.10(d) (1) & (2).

VIOLATION OF THESE PROHIBITIONS IS PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 6 MONTHS, OR BOTH. (16 USC 551 3559 AND 3581)

EXHIBIT E

NOTICE

**DISABLING OR TAMPERING
WITH THIS GATE IS A
MISDEMEANOR * PUNISHABLE BY
SIX MONTHS IN JAIL, A FINE OF
1,000 OR BOTH.**



PENAL CODE SEC.

594

U.S.F.O.S.

*** DAMAGE OVER \$400 IS A FELONY**

James Todd Bennett
Post Office Box 742
El Cerrito, CA 94530

California Coastal Commission
Headquarters Unit
45 Fremont Street, Suite 2000
San Francisco, CA 94105

FAX Transmission: (415) 904-5400

June 5, 2013

RE: California Coastal Commission ~~approval~~
Parker and Neraida LLC
CCC-13-CD-06
CCC-13-RO-06
Ventana Investors V LLC
CCC-13-CD-07
CCC-13-RO-07

Long Beach agenda for June 14, 2013

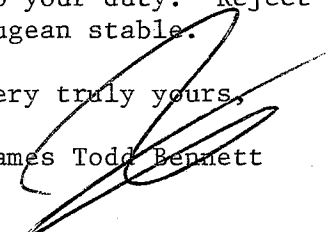
Greetings:

This is an entirely outrageous disposition. The agreement in the above entitled matters awaiting approval by the California Coastal Commission is nothing less than a written admission by the agency that our public lands and protected areas are for rent to any and all "green billionaires" who chose to indulge themselves first and then buy off the Commission with "chump change".

Where was the enforcement a month ago? Why was this narcissist allowed to continue with his self-indulgent exercise in hubris at public expense once the violations came to the attention of the Commission? Has the Commission simply become the hotelier for the rich and self-indulgent?

The Commission is urged to reject the settlement on June 14, 2013 and impose meaningful sanctions for this sustained act of arrogance. Maximum fines and penalties must be imposed along with restitution for the cost of cleaning up the mess and restoring the environment. In addition, an independent counsel ~~must be appointed to investigate the matter in full since our elected chief~~ law enforcement officer, Kamala Harris, was too busy attending the wedding of "punk Parker" in Big Sur over the weekend.

Do your duty. Reject this insulting compromise and clean up this administrative Augean stable.

Very truly yours,

James Todd Bennett

cc. Governor's Office, State of California
Office of the Attorney General, State of California

encl. (1)

Mr. Charles Lester
California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA, 94105

June 6, 2013

Dear Mr. Lester,

As a citizen and taxpayer, I am appalled that any government agency charged with guarding fragile Big Sur natural environs would be so easily co-opted by money. Accepting a fine for violating the law is one thing but allowing the celebrity marriage ceremony to occur in Big Sur shows that you can get away with breaking the law as long as you have enough money to pay off officials. That wedding should have been forced to relocate while the damage was remedied. Anything less than that demonstrates to other clueless, arrogant rich people they needn't abide by laws as long as they are willing to get out their checkbooks.

Shame, shame on you for allowing it. You should apologize to the citizens of California and resign now.

Sincerely,


Susan Waldorf

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



F 5.1, 5.3, 5.5 and 5.7

| | |
|---------------|---------|
| Staff: | NC-AM |
| Staff Report: | 6/03/13 |
| Hearing Date: | 6/14/13 |

STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders

| | |
|-------------------------------------|---|
| Cease and Desist Order Nos.: | CCC-13-CD-06 (Sean Parker and Neraida LLC) and CCC-13-CD-07 (WTCC Ventana Investors V, LLC) |
| Restoration Order Nos.: | CCC-13-RO-06 (Sean Parker and Neraida LLC) and CCC-13-RO-07 (WTCC Ventana Investors V, LLC) |
| Related Violation File: | V-3-13-004 |
| Property Owner: | WTCC Ventana Investors V, LLC |
| Alleged Violators: | Sean Parker, Neraida LLC, WTCC Ventana Investors V, LLC |
| Location: | Ventana Inn and Spa, 48123 Highway One, Big Sur, Monterey County, Assessor's Parcel Numbers 419-321-002, 419-321-009, 419-321-010, 419-321-011, 419-321-012, 419-321-013, 419-321-015 and 419-321-006. |
| Violation Descriptions: | 1. Within the existing privately run public campground, unpermitted development including, but not limited to: grading; construction of multiple structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created "ruins" of cottage and castle walls, multiple rock stairways, and a dance floor; and installation |

of over 125 potted trees, potted plants, event tents, port-a-potties, generators, lighting, and wedding facilities for guests. 2. Violation of Special Condition 1 of CDP No. 3-82-171, as amended: Closing an existing campground without an amendment, as the permit required. 3. Violation of Special Conditions 2 and 3 and Standard Condition 3 (Compliance) of CDP Amendment No. 3-82-171-A: failure to provide public area and parking at Cadillac Flats.

Persons Subject to these Orders: Sean Parker and Neraida LLC, and WTCC Ventana Investors V, LLC

Substantive File Documents:

1. Public documents in the Cease and Desist and Restoration Order files Nos. CCC-13-CD-06, CCC-13-CD-07, CCC-13-RO-06 and CCC-13-RO-07
2. Appendix A, Appendix B and Exhibits 1 through 11b of this staff report

CEQA Status: Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308, and 15321)

SUMMARY OF STAFF RECOMMENDATION

A) OVERVIEW

This matter pertains to three types of development that were either unpermitted and/or violations of an existing permit that this Commission granted for development on an approximately 170-acre property known as the Ventana Inn and Spa in Big Sur, Monterey County (Exhibit 1). The Ventana Inn complex contains a 59-room Inn, a Spa and amenities, a restaurant and a privately run campground (including approximately 100 campsites). Proceeding chronologically, the first Costal Act violation addressed by this action is the property owner's failure to provide the public parking area on the property, adjacent to public trailheads, that was part of the package the owner had offered, and the Commission had accepted, in granting the property owner use of the property for more exclusive and profitable development. Second, in 2007, the property owner closed the privately-run, public campground, thereby reducing the availability of lower-cost, public access and recreational amenities in this high demand area¹. This closure was effectuated

¹ /See further discussion at Section V (C) – History of Development and Commission Action on Subject Property.

without first seeking the authorization from the Commission that was explicitly required by the permit that authorized the development of the higher-cost Inn units and restaurant on the property. Third, despite the continued unauthorized closure of the campground to the public, earlier this year, the property owner entered into an agreement giving Sean Parker exclusive use of the campground for several months to construct a sizeable wedding venue. Parker then created this venue, in an undertaking that included construction and placement of numerous substantial structures on the site, all without any coastal development permits.

Staff recommends that the Commission approve proposed Consent Cease and Desist Orders and proposed Consent Restoration Orders (collectively, the ‘Consent Orders’) to Sean Parker and the business entity he created to manage the wedding construction, Neraida, LLC, (collectively the “Parker Respondents”) and to the property owner, WTCC Ventana Investors V, LLC, (“Ventana Respondent”) to address the development undertaken in violation of the Coastal Act on property located at 48123 Highway One, Big Sur, Monterey County (‘the property’ or ‘the subject property’) (Exhibit #1). The proposed Consent Orders, approved and executed by Sean Parker and Neraida LLC, and by WTCC Ventana Investors V, LLC are included as Appendix A and B, respectively, to this staff report.

The Parker Respondents conducted a variety of types of development in preparation for the wedding held on June 1, 2013, including, but not necessarily limited to: grading; construction of multiple structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created “ruins” of cottage and castle walls, multiple rock stairways, and a dance floor; and installation of over 125 potted trees, potted plants, event tents, port-a-potties, generators, lighting, flowers, and other facilities (hereinafter referred to as the ‘Unpermitted Development’).

In addition, the Parker Respondents’ exclusive use of the campground conflicts with the Commission’s regulatory action on CDP 3-82-171 as amended, which relied on the existence of a campground to balance the high-end development the permit authorized and to ensure that the overall project satisfied requirements for lower-cost visitor-serving uses. The Commission’s approval of CDP 3-82-171 was subject to a condition that required the permittee to first obtain a CDP amendment to close any facilities on the subject property, specifically including the existing campground. The campground has been closed since September 2007; this closure is also addressed in the proposed Consent Orders. Further, the Ventana Respondents have not been providing public amenities in the form of public parking at Cadillac Flats as required in CDP 3-82-171 and 3-82-171-A, but instead have been utilizing the area as overflow parking for Ventana Inn events.

B) COASTAL RESOURCES AND REGULATORY BACKGROUND

The Ventana campground is situated in a Redwood forest adjacent to Post Creek, which runs through the property and provides hydrologic drainage for the surrounding 870 acres watershed. Approximately 1.5 miles in length, the upper reaches of Post Creek are characterized by a narrow creek channel with a heavy redwood forest canopy and limited riparian vegetation. Approximately 900 feet from its confluence with the Big Sur River, Post Creek is blocked by a log jam, below which the stream gravels provide spawning habitat for steelhead trout, a species listed as threatened by the Federal Government. As Post Creek and the Big Sur River afford the only significant steelhead habitat in the Big Sur watershed, Post Creek is a critical link in maintaining a natural steelhead fishery in the Big Sur watershed.

Steelhead populations require, among a variety of other factors, the maintenance of low in-stream turbidity and water temperature, both of which are highly susceptible to degradation by anthropogenic activities. Development resulting in erosion along waterways increases the sediment load in streams which can smother eggs and occlude light necessary for aquatic flora photosynthesis and growth. Additionally, in ecosystems like Post Creek characterized by limited riparian vegetation, the dense redwood canopy is essential to maintaining the cooler water temperatures that steelhead and other organisms depend upon. Removal of, or damage to, redwoods and associated vegetation can thus diminish the suitability of a waterway as habitat for the threatened steelhead.

As described more completely below, in 1982, the Commission approved a permit seeking expansion of the Ventana Inn, which allowed the increase in the number of Inn rooms, the construction of employee housing, expansion of the restaurant kitchen, creation of a public picnic and trailhead area at Cadillac Flats, creation of public trails and revisions to the existing, onsite-campground (Exhibit 3). The Commission's permit action specified that any future development proposed on any of the Ventana Inn property including "new tent cabins, or closure of any facilities" required an amendment request. In 1986, the Commission approved an application to amend CDP 3-82-171 to, among other things, revise the required public picnic and trailhead area at Cadillac Flats to delete the picnic tables and restrooms (Exhibit 4). In exchange, the property owner offered, and the Commission accepted as "acceptable equivalents to the original proposal" the use of Cadillac Flats as a public parking and entry spot for hikers and pedestrians to utilize the trails on and off Ventana property.

In late April 2013, Monterey County Code Enforcement staff received a report of alleged unpermitted development activities underway at the subject property. After conducting a site visit on May 1, 2013, the County contacted the Commission's Central Coast District enforcement staff on May 2, 2013, concerning possible violations occurring at the subject property. Within the campground multiple structures and platforms were being created; cemented rock stairways had been installed immediately adjacent to old growth redwood; construction activities had occurred immediately adjacent to Post Creek located within the campground; trees and potted plants were being installed; and roads and campsites were being graded and altered, all in preparation for an event scheduled to occur on June 1, 2013. The Respondents had not received any local, state or federal permits for the cited development activities. Further, the public campground was effectively closed for the June 1, 2013 event.

Upon staff investigation, it was determined that the public campground has in fact been closed since September 2007 as a result of a Central Coast Regional Water Quality Control Board Order to replace the property's failed septic systems, and an order to close the campground and limit Inn capacity issued the County Department of Environmental Health. However, the Ventana Respondents had failed to request or obtain an amendment at any time over that six-year period. In addition, the Ventana Respondents have converted the public use area located at Cadillac Flats into overflow parking for the Inn and Spa guests.

Commission staff has worked closely with all of the Respondents to reach agreement on the proposed Consent Orders, and appreciates their cooperation. Attached to this staff report are two separate sets of orders – two orders involving the Parker Respondents are attached as Appendix A (Parker Orders), and two orders involving the Ventana Respondents are attached as Appendix B (Ventana Orders). Through the proposed Consent Orders, the Respondents have collectively agreed to resolve claims for injunctive relief through restoration and mitigation, and they have agreed to the payment of penalties, and an enforceable commitment not to undertake unpermitted development in the future and to comply with previously issued permits as more fully detailed in section C below.

C) DESCRIPTION OF PROPERTY

The property subject to the Consent Orders is located at 48123 Highway One within the Ventana Inn and Spa complex in Big Sur, Monterey County, and comprises eight parcels totaling approximately 170 acres (Exhibit #5). WTCC Ventana Investors V, LLC owns the subject property, a portion of which Sean Parker and Neraida LLC have permission to use until July 1, 2013 (the campground). The Ventana Inn complex is located at the southern end of Big Sur Valley in the vicinity of Big Sur Village. As provided for in Coastal Development Permits approved by the Commission, the subject property provides a mixture of higher cost visitor-serving facilities (Inn units and Spa, Restaurant) and lower cost visitor facilities (campground, public view and trailhead areas, trails and parking) (Exhibit 2). Big Sur is not a formal town, but rather a thinly settled patch of mountain and shore with a reputation built on its mix of dramatic natural scenery and the personal exploration afforded by interaction therewith. The Ventana Inn complex is located on the inland side of Highway One and trails on the subject property lead to the Los Padres National Forest and Pfeiffer Big Sur State Park. Near the Ventana Inn is an area known as Cadillac Flats, a popular starting point for hikers and backpackers using the old Coast Ridge Road trail, which winds southeast along the mountains. From the Coast Ridge Road trail, connecting trails lead down the east side of the coastal range to campsites scattered along the Big Sur River, upstream from Pfeiffer Big Sur State Park.

D) TERMS OF PROPOSED ORDERS

By signing the proposed Consent Orders, Respondents have collectively agreed to, among other things: 1) cease and desist from conducting any further unpermitted development on the subject property; 2) remove the Unpermitted Development; 3) restore the areas impacted by Unpermitted

Development that is to be removed under these Consent Orders²; 4) enhance the existing campground facilities and support structures, and reopen a campground for year-round public use; 5) create and maintain public access trails in the vicinity of Ventana Inn, which will provide significant connections to existing trails; 6) enhance and clearly mark the availability of public parking at the Cadillac Flats trailhead area consistent with CDP 3-82-171-A; 7) improve the campgrounds and facilities at the Ventana Campground; 8) produce and provide a public access management plan subject to review and approval by the Executive Director; 9) publish and provide a brochure for the public clearly identifying all public access trails and amenities available on the subject property; 10) pay settlement monies to the Violation Remediation Account; 11) pay monies to fund one or more conservation or public access projects or programs; and 12) fund and implement a public education and communications program focused on coastal conservation and/or public access.

Staff believes that the collective provisions of the proposed consent orders provide a creative means to address the various violations involving multiple parties, in a manner which will restore coastal resources on site, improve public access and recreation opportunities on site and in nearby areas, and also provide for additional benefits to coastal resources via projects to benefit conservation and public education regarding coastal resources.

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² Both section 2 and section 15 of the Ventana Orders memorialize the Ventana Respondents’ prior oral agreement to provide access to the Parker Respondents as necessary to allow them to carry out the restoration work required by the Parker Orders.

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APPENDICES

- Appendix A Proposed Consent Cease and Desist and Restoration Orders CCC-13-CD-06 and CCC-13-RO-06 (Sean Parker and Neraida, LLC) (including Exhibits 1-11b, incorporated by reference and appended below)
- Appendix B Proposed Consent Cease and Desist and Restoration Orders CCC-13-CD-07 and CCC-13-RO-07 (WTCC Ventana Investors V, LLC) (including Exhibits 1-11b, incorporated by reference and appended below)

EXHIBITS

- | | |
|------------|---|
| Exhibit 1 | Site map and location |
| Exhibit 2 | Aerial Photograph showing site development |
| Exhibit 3 | CDP 3-82-171 |
| Exhibit 4 | CDP 3-82-171-A |
| Exhibit 5 | Ventana Properties Parcel Map |
| Exhibit 6 | Photograph depicting unpermitted grading |
| Exhibit 7 | Photograph depicting unpermitted artificial pond and stone bridge |
| Exhibit 8 | Photograph depicting unpermitted rock walls, stairways, potted trees, seating, generators, etc. |
| Exhibit 9 | Photograph depicting unpermitted development abutting a redwood tree |
| Exhibit 10 | Photograph depicting elevated platform adjacent to Post Creek |
| Exhibit 11 | Photograph depicting campground prior to development |
| Exhibit 12 | Photograph taken during unpermitted construction |

I. MOTION AND RESOLUTION

Motion 1:

*I move that the Commission **issue** Consent Cease and Desist Order No. CCC-13-CD-06 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in the issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order No. CCC-13-CD-06, as set forth below, and adopts the findings set forth below on grounds that development, conducted and maintained by Respondents, has occurred on property owned and operated by Respondents without a coastal development permit, in violation of the Coastal Act, and that the requirements of the Consent Order are necessary to ensure compliance with the Coastal Act.

Motion 2:

*I move that the Commission **issue** Consent Restoration Order No. CCC-13-RO-06 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Restoration Order:

The Commission hereby issues Consent Restoration Order No. CCC-13-RO-06, as set forth below, and adopts the findings set forth below on the grounds that 1) development has occurred on the subject property without a coastal development permit, and inconsistent with a previously issued permit, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage.

Motion 3:

*I move that the Commission **issue** Consent Cease and Desist Order No. CCC-13-CD-07 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in the issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order No. CCC-13-CD-07, as set forth below, and adopts the findings set forth below on grounds that development, conducted and maintained by Respondents, has occurred on property owned and operated by Respondents without a coastal development permit and inconsistent with a previously issued permit, in violation of the Coastal Act, and that the requirements of the Consent Order are necessary to ensure compliance with the Coastal Act.

Motion 4:

*I move that the Commission **issue** Consent Restoration Order No. CCC-13-RO-07 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Restoration Order:

The Commission hereby issues Consent Restoration Order No. CCC-13-RO-07, as set forth below, and adopts the findings set forth below on the grounds that 1) development has occurred on the subject property without a coastal development permit, and inconsistent with a previously issued permit, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage.

II. JURISDICTION

The property subject to the proposed Consent Orders is located within Big Sur, within unincorporated Monterey County. While Monterey County has a certified Local Coastal Program (“LCP”), the Commission retains primary enforcement and permitting jurisdiction over the subject unpermitted development activities as they are directly associated with CDP No. 3-82-171 as amended, first issued by the Commission in 1982. The 1982 CDP included a condition that required the Respondents to submit an amendment request for any proposed closures of onsite facilities. The subject unpermitted development involves an unauthorized closure onsite as well as unpermitted use of that closed facility. It also involves the placement of unpermitted development in conflict with resource protection policies offered to protect sensitive

Redwood forest habitat and Post Creek, which runs through the subject property. Thus, the Commission retains enforcement and permitting jurisdiction.

III. COMMISSION'S AUTHORITY

The Commission can issue a Cease and Desist Order under Section 30810 of the Coastal Act in cases where it finds that the activity that is the subject of the order has occurred either without a required CDP or in violation of a previously granted CDP. The Commission can issue a Restoration Order under section 30811 of the Coastal Act if it finds that development 1) has occurred without a CDP, 2) is inconsistent with the Coastal Act, and 3) is causing continuing resource damage. These criteria are all met in this case, as summarized briefly here, and discussed in more detail in Section V, below.

The unpermitted activity that has occurred on the subject property clearly meets the definition of “development” set forth in Section 30106 of the Coastal Act. Development is defined broadly under the Coastal Act, and includes, among many other actions, the “placement or erection of any solid material or structure... grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land;...construction, reconstruction, demolition or alteration of the size of any structure...; and the removal or harvesting of major vegetation other than for agricultural purposes...”

All non-exempt development in the Coastal Zone requires a CDP. No exemption from the permit requirement applies here. The development was undertaken without a CDP and is also inconsistent with a previously issued CDP. CDP 3-82-171 allowed an expansion of high cost rooms at an existing mixed use recreational complex in Big Sur. It allowed the expansion and required additional low-cost amenities to be included in the approved project to enhance public recreational opportunities available onsite and create new low cost amenities. CDP 3-82-171's conditions of approval specifically stated “*Any future development on any of Ventana's parcels including new tent cabins or closure of any facilities shall require an amendment request.*”

The Ventana Respondents closed the existing campground facility without submitting and obtaining a CDP amendment from the Commission for the closure, and also altered the required public amenities at Cadillac Flat without obtaining an amendment from the Commission for the changed amenities. The Ventana Respondents also allowed the Parker Respondents to use the public campground for an event. The Parker Respondents have installed artificial ponds: graded walkways, built stone bridges, elevated platforms, walls (in some cases adjacent to Post Creek), and cottage and castle “ruins”; and planted over 125 trees in containers; and have constructed cement and stone stairways all around an existing redwood. Existing habitat has been impacted by the various aspects of the event development activities. The unpermitted development is: 1) inconsistent with the policies in Chapter 3 of the Coastal Act, including Section 30213 (protecting lower cost visitor and recreational facilities), Section 30223 (reserving upland areas to support coastal recreational uses), Section 30231 (protecting coastal streams with maintaining natural buffer areas and minimizing alteration of natural streams), 30240 (protecting environmentally sensitive habitat areas), and Section 30250 (limiting the location of new

development), which require protection of coastal resources within the Coastal Zone; and 2) causing continuing resource damage, as discussed more fully in Section V below.

Much of the Unpermitted Development³ subject to these Consent Orders is directly within and adjacent to redwood forest habitat in Big Sur and has altered and adversely impacted the resources associated with this sensitive habitat-type. Such impacts meet the definition of “damage” provided in Section 13190(b) of Title 14 of the California Code of Regulations (“14 CCR”), which defines “damage” as “any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.” If the Unpermitted Development, including, but not limited to, grading, construction of stone bridges, walkways, walls, cottage ruins, ponds, elevated platforms, stairs, installation of potted trees and plants is allowed to remain unrestored and unmitigated, further adverse impacts are expected to result (including the temporal continuation of the existing impacts) to resources protected under Chapter 3 of the Coastal Act. Similarly, the unpermitted closure of the campground and use of public parking for private uses have ongoing impacts to public access.

The Unpermitted Development and the impacts therefrom remain on the subject property. Unless addressed, the continued presence of the Unpermitted Development, as described below, will exacerbate and/or prolong the adverse impacts to redwood and riparian habitat and the water quality and biological productivity of this area. Similarly, the unpermitted closure of the campground and use of public parking for private uses have ongoing impacts to public access. The continued presence of the unpermitted development on the subject property is causing continuing resource damage, as defined in 14 CCR Section 13190. Thus, the Commission has the authority to issue both a Cease and Desist and a Restoration Order in this matter.

IV. HEARING PROCEDURES

The procedures for a hearing on a Cease and Desist Order and Restoration Order are outlined in 14 CCR Section 13185 and 14 CCR Section 13195.

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their

³ “Unpermitted Development” refers to unpermitted physical work done at the subject property. “Campground Closure” refers to the violations of CDP No. 3-82-171 as amended.

representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which time Staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Sections 13195 and 13186, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of the motion above, per the Staff recommendation or as amended by the Commission, will result in issuance of the Cease and Desist Order and Restoration Order.

V. FINDINGS FOR CEASE AND DESIST ORDER NO. CCC-13-CD-06 & RESTORATION ORDER CCC-13-RO-06 (PARKER AND NERAIDA, LLC) and CEASE AND DESIST ORDER NO. CCC-13-CD-07 & RESTORATION ORDER CCC-13-RO-07 (WTCC VENTANA INVESTORS V, LLC)⁴

A. DESCRIPTION OF PROPERTY

The property subject to the proposed Consent Orders is the Ventana Inn and Spa complex located at 48123 Highway One in Big Sur within unincorporated Monterey County, and consists of eight different parcels totally approximately 170 acres⁵. The subject unpermitted development is occurring within the existing public campground portion of the Ventana Inn complex at the subject property and at the parking area and trail head known as Cadillac Flats.

The subject property is located at the southern end of the Big Sur Valley in the vicinity of Big Sur Village. As provided for in the Coastal Development Permit approved by the Commission, the subject property provides a mixture of higher cost visitor-serving facilities (59 Inn units,

⁴ These findings also hereby incorporate by reference the Executive Summary of the June 3, 2013 staff report (“Staff Report: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders”) in which these findings appear, which section is entitled “Summary of Staff Recommendation.”

⁵ The property subject to the proposed Consent Orders is identified as Monterey County Assessor’s Parcel Numbers 419-321-002, 419-321-006, 419-321-009, 419-321-010, 419-321-011, 419-321-012, 419-321-013 and 419-321-015.

restaurant, swimming pools and spa) and lower cost visitor-serving facilities (approximately 100-space campground, bath-houses, public trails and public parking). Big Sur is not a formal town, but rather is a thinly settled patch of mountain and shore with an international reputation built on its mix of dramatic scenery and personal exploration. Big Sur is a major visitor destination spot for visitors of all income levels. Due to development constraints, there are not enough high end or low end accommodations to meet the public demand for visitor accommodation in Big Sur. Thus, existing accommodations are highly prized and protected. The Ventana Inn complex is located on the inland side of Highway One, and trails on the subject property lead to the Los Padres National Forest and to Pfeiffer Big Sur State Park. Near Ventana Inn is Cadillac Flat, a starting point for hikers and backpackers using the old Coast Ridge Road trail, which winds southeast along the mountains. From the Coast Ridge Road trail, connecting trails lead down the east side of the coastal range to campsites scattered along the Big Sur River, upstream from Pfeiffer Big Sur State Park.

The existing campground is situated in Redwood forest adjacent to Post Creek, which runs through the property and within the Post Creek Watershed (Exhibit 11). Post Creek has a small watershed within an area of 870 acres. The creek is approximately one and one-half miles in length, dropping from an elevation of 1500 feet at its headwater springs to 280 feet at its confluence with the Big Sur River. The upper reaches are often characterized by a narrow creek channel with a heavy redwood forest canopy and limited riparian vegetation. Surface flow volumes vary significantly along the length of the stream according to the immediate creek channel geology as well as in response to seasonal and daily variations in runoff. Approximately 900 feet from its confluence with the Big Sur River, Post Creek is blocked by a log jam. Below the jam the stream gravels provide a spawning habitat for steelhead trout.

Steelhead are an anadromous fish, hatching and spending their juvenile life in the stream, maturing in the ocean and then returning to the stream to spawn. They generally spawn all winter with peak activity in January and February. They move upstream, mating and laying their eggs in areas of loose gravel. Two or three months after spawning the young fish emerge from the gravel. Juveniles generally remain in the stream for a year, migrating to the ocean in March and April. Only about 10 percent of the juveniles survive to migrate to the ocean. After 2 years, the fish return. Of every four thousand eggs hatched, one steelhead survives to maturity and returns to spawn.

Post Creek and the Big Sur River itself provide the only significant steelhead habitat in the Big Sur watershed. Three other perennial streams enter the Big Sur River, but two are inaccessible to steelhead and the other provides very limited access. Because of this, Post Creek is important in maintaining a natural steelhead fishery in the Big Sur watershed. Additionally, the riparian corridor of Post Creek includes redwood trees, associated shrubs and trees, wildlife and stream life.

B. DESCRIPTION OF COASTAL ACT VIOLATION

The development at issue in this matter (hereinafter referred to as the ‘Unpermitted Development,’ and ‘Campground Closure’) includes, but may not be limited to: failure to submit and obtain a CDP amendment to close the existing campground as required by CDP No. 3-82-171 (Campground Closure); failure to provide a public hiking and trailhead area at Cadillac Flats with public parking as required by CDP No. 3-82-171 as amended (Campground Closure); within the existing approximately 100-space campground, unpermitted development including grading, change in use from campground to private event, construction of multiple structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created ruins of cottages and castle walls, multiple locations with rock stairways, a dance floor, installation of numerous potted trees, potted plants and flowers, event tents, port-a-potties, generators, lighting, and wedding facilities (Unpermitted Development) (Exhibits 6-10).

C. HISTORY OF DEVELOPMENT AND COMMISSION ACTION ON SUBJECT PROPERTY

1) HISTORIC DEVELOPMENT AND PERMIT HISTORY

The subject property has historically provided a mixture of low-cost and high-cost visitor-serving opportunities. Prior to the effective date of the Coastal Act, the property subject to this enforcement action contained a privately run campground and a 14-unit Inn and Spa complex. The Ventana Inn opened in 1975, and beginning in 1977, the Ventana Inn submitted plans to Monterey County to expand to 50 units. In early 1978, Monterey County planning approved the 36-unit expansion to the Inn, as well as campground improvements (road paving, electrical hook-ups), staff housing, septic system improvements, bath-house and office expansions, a new gatehouse, and landscaping. The County specifically required that 50 to 101 campsites “be maintained in good order at comparable prices to other campgrounds in the area.” Any closure or partial closure of the campground due to water conservation necessity had to be done on an equitable basis with higher cost facilities. If the Inn expansion resulted in fewer campsites, the lost campsites had to be replaced and the existence of the campground had to be better publicized.

The Central Coast Regional Commission⁶ denied this expansion request due to concerns that approval of the expansion request would prejudice the LCP planning process with regards to allocations of water supply for existing and new development as well as traffic planning in Big Sur. The County had requested that the Commission abstain from approving major projects until the LCP process was completed. Ventana appealed the denial decision to the statewide Commission, which approved a limited expansion of 16 of the 36 additional units requested by

⁶ Previously, the Coastal Act was implemented by Regional Commissions. The Regional Commissions’ decisions were appealable to a Statewide Commission based in San Francisco. In 1981, the Regional Commissions’ authority expired under the Coastal Act and the Regional Commission offices became district offices of the current statewide California Coastal Commission.

Ventana. The statewide Commission also approved the requested campground improvements, the staff housing, the septic system improvements, the bath house expansion, the office expansion, replacement of the existing parking lot with golf cart storage, landscaping, and gate house construction.

Ventana continued to pursue its requests to expand the Inn as originally envisioned. However, the Commission denied amendment requests made in 1978 and in 1980 because it found that expansion was not appropriate until the ultimate water demand for Post Creek had been formulated. The Monterey County Land Use Plan (“LUP”)⁷ recommended expansion of visitor facilities in the Big Sur village area as well as at existing facilities. The Commission found that approval of an additional 20 high-end visitor-serving units would preclude development or expansion of low-cost visitor-serving facilities in the area.

In September, 1981 the Commission certified the Big Sur LUP. Once the LUP had been certified, Ventana resubmitted its request to expand the Inn. In October, 1982, the Commission conditionally approved an expansion of 19 units, a swimming pool, bath house, restaurant, kitchen addition, picnic area, 15 employee housing units, a recreation building, ancillary trail, parking and septic systems, the remodel of Post Homestead into a store and staff apartments, and expansion of and improvements to the campground (adding 27 additional camp sites and conversion of sites to tent cabins and road paving). In June 1986, the Commission approved a material amendment to CDP 3-82-171 to amend conditions relating to water management, to relocate the 19 inn units and add a reservation room, linen storage, reading rooms, a lobby expansion, and a restaurant addition, a modification to the previously required picnic area at Cadillac Flats, a lot line adjustment and modification of recreation conditions. The Commission allowed a change at Cadillac Flats by deleting the requirement that it be a picnic area, and instead it required the applicant to landscape the Cadillac Flats public area and to provide either unpaved or crushed rock public parking for use by the public for public viewing and as a parking area for hikers and backpackers of the area. This was designed to also allow the area to still be used as needed as a staging area for firefighting as well. The applicant also contributed more to the cost of improvements in State Parks. The applicant was also required to provide map displays and access signs for the public. Instead of providing an additional 27 campsites to the existing campground, since the original permit allowed the applicant to contribute an equivalent benefit to State Parks in lieu of this requirement, the Commission acknowledged that the applicant was working with State Parks to exercise that contribution option in lieu of expanding the existing campground by 27 campsites.

Over time, the Ventana Inn and Spa complex owners have sought an additional 3 immaterial amendments for a total of 4 amendments of CDP 3-82-171 from the Commission for the project site. In August 2004, the Commission approved an immaterial amendment to change the

⁷ A Local Coastal Program consists of a Land Use Plan, which contains policies and land use designations, a map of land use designations and Implementing Zoning Ordinances.

required implementation of the Project Water Monitoring and Management Plan, due to the transfer of a 72-acre parcel from Ventana to State Parks and Recreation. Pursuant to this amendment, water monitoring and data collection would still occur, just with participation by the new owner. In January 2012, the Commission amended CDP 3-82-171 a third time to allow for the installation and construction of a new wastewater collection and treatment system (excluding the dispersal system) to serve the existing facilities at Ventana Inn and Spa, including the campground and employee housing units, as necessary to comply with Regional Water Quality Control Board (RWQCB) Cleanup and Abatement Order No. R3-2007-0091. Finally, in May 2012, the Commission amended CDP 3-82-171 a fourth time to allow the installation of the new tertiary-treated wastewater dispersal system to serve the existing facilities at the Ventana Inn and Spa, including the campground and employee housing. The Ventana Respondents have never requested of the Commission an amendment to close any of the existing facilities, including the campground.

2) COASTAL ACT VIOLATIONS

Some of the unpermitted development addressed in the proposed Consent Orders commenced in September 2007 (Camp Closure) when the Ventana Respondents closed the existing campground. The campground has remained closed since 2007 and is still closed for camping as of the date of this report. In addition, the Ventana Respondents have altered the nature of use of the public amenities located at Cadillac Flats. This area has not been maintained as parking for the public and has instead been used for overflow parking by Ventana Inn and Spa.

In January 2013, the owners of the Ventana Inn and Spa complex reached an agreement with Sean Parker and Neraida LLC for Sean Parker and Neraida LLC to have exclusive use of the existing campground for an event scheduled to occur on June 1, 2013. The Respondents have stated that this agreement allowed Sean Parker and Neraida LLC use of the campground from approximately March until July 1, 2013. The Parker Respondents proceeded to perform unauthorized development activities within the campground. Existing roads and campsites were graded and contoured to create the appearance of ruins. Stone gateways and walls were constructed. Staircases were crafted around existing habitat and redwood trees. An artificial pond was dug and installed. A stone bridge over the pond was constructed. Several elevated platforms were created, some adjacent to Post Creek (Exhibit 9). Over 100 potted trees and plants were partially planted within the existing road beds and campsites, and lighting was installed in the redwood forest. In addition to the unpermitted development, other items to facilitate the event have also been placed on the site including tents and generators.

A member of the public reported possible unpermitted development occurring to Monterey County, who performed a site visit on May 1, 2013. The County contacted the Commission on May 2, 2013, and the Commission requested that work stop on Wednesday May 8, 2013. Work initially stopped on May 9, 2013 and recommenced on Wednesday May 15, 2013. The Respondents notified Commission staff regarding work recommencing and Commission staff responded that if the Respondents recommenced unpermitted development, they did so at their own risk of being determined to have violated the Coastal Act's permit requirements.

After the first Commission staff contact, the Respondents and Commission staff have been working together to reach agreement to resolve the Coastal Act violations occurring on the project site. Staff appreciates the Respondents' commitment to removal and restoration and the agreement to provisions to ensure that current and future development on site is rendered consistent with Coastal Act resource protection policies.

D. BASIS FOR ISSUANCE OF ORDERS

1) STATUTORY PROVISIONS

(a) Cease and Desist Order

The statutory authority for issuance of this Cease and Desist Order is provided in Coastal Act Section 30810, which states, in relevant part:

(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist....

...

(b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...

(b) Restoration Order

The statutory authority for issuance of this Restoration Order is provided in Section 30811 of the Coastal Act, which states, in relevant part:

In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that [a] the development has occurred without a coastal development permit from the commission, local government, or port governing body, [b] the development is inconsistent with this division, and [c] the development is causing continuing resource damage.

The following paragraphs set forth the basis for the issuance of the proposed Consent Cease and Desist and Restoration Orders by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 and 30811 for the Commission to issue a Cease and Desist and Restoration Order.

2) APPLICATION TO FACTS

(a) Development has occurred without a Coastal Development Permit and in violation of CDP 3-82-171 as amended, which the Commission Previously Issued

As noted above, the activities at issue in this matter constitute ‘development’ as defined in the Coastal Act and are therefore subject to permitting requirements. Staff has verified that the cited development on the subject property was conducted without a CDP. In addition, CDP 3-82-171 required the owners to request an amendment to 3-82-171 to close any facilities. The Commission found this pre-closure condition necessary to finding the overall project consistent with the Coastal Act, and thus designed the permit condition to ensure the continued existence of a public campground on the project site. The Commission found: “In summary, as conditioned to require provision of public restroom and signing for picnic area, of replacement campsites, publicizing campground, new lower cost facilities, trail easements, and permit amendments for future closures or conversions, the proposed project is consistent with Sections 30213 and 30223.”

The first permit amendment modifying CDP 3-82-171 also required public parking and amenities at Cadillac Flats. The Ventana Respondents have closed the campground without first receiving an amendment (as would be requisite) from the Commission for the closure and have altered the use at Cadillac Flats from public to private amenities (overflow parking for the Inn and Spa).

The Ventana Respondents have also allowed, and the Parker Respondents have undertaken unpermitted development by grading and altering the use of the campground from campground facilities to event facilities. As noted above, the Parker Respondents have conducted development activities and placed a significant amount of development on the site. All of these activities meet the definition of development contained in the Coastal Act and conflict with the Commission’s prior permit action for the subject property.

(b) The Unpermitted Development at Issue is Inconsistent with the Coastal Act

The Unpermitted Development and Campground Closure described herein is not consistent with Section 30213 (protecting lower cost visitor and recreational facilities), Section 30223 (reserving upland areas to support coastal recreational uses), 30231 (protecting coastal streams with maintenance of natural buffer areas and minimization of alteration of natural streams), 30240 (protecting environmentally sensitive habitat areas), and Section 30250 (limiting the location of new development) of the Coastal Act.

i) Protection of Lower Cost Visitor and Recreational Facilities

Coastal Act Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where

feasible, provided. Development providing public recreational opportunities are preferred.

Coastal Act Section 30223:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30250:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions...outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average sized of surrounding parcels.

The property subject to these Orders is a property containing a mixture of visitor-serving uses. The Ventana Inn and Spa complex contains 50 high-end visitor-serving units, as well as a restaurant, a spa and pools. The Ventana Inn and Spa complex also contains a campground available to the public year-round as well as several public trails, viewing areas and public parking. The unpermitted development has caused the closure of the entire campground and public parking available at Cadillac Flats, inconsistent with sections 30213, 30223 and 30250 of the Coastal Act. The closure of the campground has eliminated public opportunity for lower cost recreation since October 2007. The alteration of use of Cadillac Flats has eliminated an upland support area for supporting low cost recreational use (hiking and backpacking), inconsistent with Sections 30213 and 30223 of the Coastal Act.

ii) Protection of Environmentally Sensitive Habitat and Coastal Streams

Coastal Act Section 30107.5:

'Environmentally sensitive area' means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Section 30240:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which

would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The property subject to the Consent Orders comprises part of a redwood forest and contains a coastal stream within the campground. The Parker Respondents did not install any erosion-control measures or any BMPs when they commenced development within the campground. Structures, walls and elevated platforms have been constructed immediately adjacent to Post Creek with no setbacks employed. The Parker Respondents have recently installed temporary fencing in an attempt to reduce potential impacts to Post Creek, but most of the development occurred without any such erosion-control protections in place. Increased erosion resulting from hardscaping and vegetation removal along streams impairs riparian corridors, streams, and, ultimately, shallow marine waters by increased sedimentation. Increased sediment loads in streams and coastal waters can increase turbidity, thereby reducing light transmission necessary for photosynthetic processes, reducing the growth of aquatic plants. Additionally, structures have been built up to and around existing redwoods and vegetation within the campground (Exhibit 10). Beyond immediate physical damage to individual trees, failure to provide adequate development buffers from redwood trees can negatively impact the underground lignotubers by which redwoods clonally reproduce, thus impeding propagation. The unpermitted development has thus impacted the existing redwood forest habitat and has likely caused sedimentation of Post Creek.

Therefore, Unpermitted Development on the subject property within the previously reserved low-cost visitor serving portions of the site, and adjacent to redwood forest and stream habitat is inconsistent with the Coastal Act and causing continuing resource damage in contravention of the Coastal Act policies protecting low-cost visitor-serving amenities, preservation of upland areas for recreational use, environmentally sensitive habitat areas, and the biological productivity, and water quality of coastal streams.

Removal of all unpermitted structures and plants, and revegetation of areas impacted by Unpermitted Development will be undertaken pursuant to the proposed Consent Orders. This restoration work will ensure that habitat connectivity will be restored and ecosystem services re-established. Further, the campground will be re-established and improved to provide camping amenities for camping year-round. Finally, public use of Cadillac Flats will be restored.

(c) Unpermitted Development is Causing Continuing Resource Damage

The unpermitted development is causing ‘continuing resource damage’, as those terms are defined by Section 13190 of the Commission’s regulations.

(i) Definition of Continuing Resource Damage

Section 13190(a) of the Commission’s regulations defines the term ‘resource’ as it is used in Section 30811 of the Coastal Act as follows:

‘Resource’ means any resource that is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

The term ‘damage’ in the context of Restoration Order proceedings is defined in Section 13190(b) as follows:

‘Damage’ means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.

In this case, the resources affected include the habitat and ecosystem functions provided by the impacted native redwood forest, riparian corridors, and Post Creek. As detailed above, Chapter 3 of the Coastal Act variously provides protection for the integrity of the existing waterways, the biological productivity, and the water quality of these resources. The damage includes the degradation of redwood forest habitat and sedimentation of Post Creek, which is caused by the unpermitted development on the subject property, the degradation of water quality and biological productivity, and the alteration of the waterways, as described in the Section V(D)(2)(a-b) above.

The term ‘continuing’ is defined by Section 13190(c) of the Commission’s regulations as follows:

‘Continuing’, when used to describe ‘resource damage’, means such damage, which continues to occur as of the date of issuance of the Restoration Order.

As of this time, the unpermitted development that is the subject of these proceedings and the results thereof remain on the subject property. As described above, the unpermitted development results in impacts to coastal resources, including: the removal of low-cost visitor serving amenities; damage to the structural integrity of redwood trees and the ecosystem they support by the placement of cement and structures immediately against existing redwoods; and the degradation of Post Creek, a coastal stream providing habitat and spawning grounds for coastal steelhead trout, by the carrying out of development activities directly adjacent thereto. The installation of the various development structures has the potential to impact coastal resources as the continuing presence of development placed in close proximity of trees and waterways without appropriate buffers and setbacks impacts the native ecosystem and functioning, disrupts the biological productivity of these areas, and continues to introduce sediments and contaminants into the waterways.

As described above, the unpermitted development is causing adverse impacts to resources protected by the Coastal Act that continue to occur as of the date of this proceeding, and therefore damage to resources is “continuing” for purposes of Section 30811 of the Coastal Act. The damage caused by the unpermitted development, which is described in the above

paragraphs, satisfies the regulatory definition of “continuing resource damage.” The third and final criterion for issuance of a Restoration Order is therefore satisfied.

(d) Orders are Consistent with Chapter 3 of the Coastal Act

The Consent Cease and Desist and Restoration Orders attached to this staff report as Appendix A and B are consistent with the resource protection policies found in Chapter 3 of the Coastal Act. The Consent Orders require Respondents to remove unpermitted development from the subject property, restore the subject property using restorative grading and planting of vegetation native to redwood forest ecosystems, mitigate for temporal losses, and cease and desist from conducting any further unpermitted development on the subject property. Under the Consent Orders, Respondents have agreed to remove the unpermitted development placed on the property, and to restore the area to its previolation condition, including by undertaking any needed restoration and replanting required, and ensuring that non-native, invasive plant species do not colonize the newly restored site and spread from there to supplant the surrounding native habitat. Failure to revegetate the site would lead to potential invasion of non-native plant species, thus decreasing the biological productivity of this habitat, inconsistent with the resource protection policies of the Coastal Act. The primary function of the native revegetation is the restoration and improvement of water quality, biological productivity, and environmentally sensitive resources; therefore the proposed activities are consistent with Sections 30231 and 30240. The proposed restoration will improve water quality and biological resources by removing physical development and thereby increasing ecosystem resource cycling. Further, by restoring native vegetation, the proposed restoration will increase environmentally sensitive habitat area and restore riparian ecosystem functions. Finally, re-opening the campground and providing an opportunity for public parking at Cadillac Flats would also be consistent with the public access and lower-cost recreational use requirements of the Coastal Act.

Therefore, the Consent Cease and Desist and Restoration Orders are consistent with the Chapter 3 policies of the Coastal Act.

E. CONSENT AGREEMENT: SETTLEMENT

Chapter 9, Article 2, of the Coastal Act provides that violators may be civilly liable for a variety of penalties for violations of the Coastal Act, including daily penalties for knowingly and intentionally undertaking development in violation of the Coastal Act. Respondents have clearly stated their willingness to completely resolve the violations at issue herein, including any civil liability, administratively and amicably, through a settlement process. To that end, Respondents have committed to comply with all terms and conditions of the Consent Orders, including the provisions regarding monetary penalties, and not to contest the issuance or implementation of the Consent Orders.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Commission finds that issuance of these Consent Orders to compel compliance with the Coastal Act, to restore resources impacted by the Unpermitted Development activities, and to mitigate the impacts that resulted from the Unpermitted Development are exempt from any applicable requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 et seq., and will not have significant adverse effects on the environment, within the meaning of CEQA. The Consent Orders are exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines, which are also in 14 CCR.

G. SUMMARY OF FINDINGS OF FACT

1. WTCC Ventana Investors V, LLC is the owner of the properties located at 48123 Highway One, Big Sur, CA 93920. The property at issue herein is identified by the Monterey County Assessor's Office as APNs 419-321-002, 419-321-006, 419-321-009, 419-321-010, 419-321-011, 419-321-012, 419-321-013 and 419-321-015. The property is located within the Coastal Zone and has been approved as a mixed-use facility containing a 50-room Inn, a Spa, a Restaurant and a campground available to the public.
2. Sean Parker and Neraida, LLC have leased exclusive use of a portion of the properties identified above within the public campground. Sean Parker and Neraida, LLC have performed the unpermitted development located within the public campground. WTCC Ventana Investors V, LLC and Sean Parker and Neraida, LLC have committed jointly to undertake the removal, restoration, and payment of penalties pursuant to the Consent Cease and Desist and Restoration Orders.
3. WTCC Ventana Investors V, LLC undertook development, as defined by Coastal Act Section 30106, without a coastal development permit, and in violation of a previously issued coastal development permit, on the subject property, by closing the campground without first requesting and obtaining an amendment, and by altering the approved use of Cadillac Flats.
4. Sean Parker and Neraida, LLC undertook, by placing and maintaining, unpermitted development.
5. The Unpermitted Development listed above is inconsistent with Chapter 3 of the Coastal Act and is causing "continuing resource damage" within the meaning of Coastal Act Section 30811 and Title 14, California Code of Regulations, Section 13190.
6. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order in these circumstances. Coastal Act Section 30811 authorizes the Commission to issue a restoration order in these circumstances.
7. The work to be performed under these Consent Orders, if completed in compliance with the Orders and the plans required therein, will be consistent with Chapter 3 of the Coastal Act.

**CONSENT CEASE AND DESIST ORDER CCC-13-CD-06
AND
CONSENT RESTORATION ORDER CCC-13-RO-06**

1.0 CONSENT CEASE AND DESIST ORDER CCC-13-CD-06

Pursuant to its authority under California Public Resources Code (“PRC”) Section 30810, the California Coastal Commission (“Commission”) hereby orders and authorizes Sean Parker and Neraida, LLC; and any of their successors, assigns, employees, agents, contractors, and any persons acting in concert with any of the foregoing, (hereinafter collectively referred to as “Respondents”)¹ to:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, that would normally require a coastal development permit (“CDP”) on any of the property identified in Section 5.2 below (the Property”), unless authorized pursuant to the Coastal Act (PRC Sections 30000-30900), which includes through these Consent Orders.
- 1.2 Remove, pursuant to and consistent with the terms of an approved removal plan discussed in Section 6.2, below, and pursuant to the terms and conditions set forth herein, all physical items placed or allowed to come to rest on the Property as a result of any unpermitted development, as defined in Section 5.3, below (“Unpermitted Development”), including, but not limited to: multiple temporary structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created cottage and castle walls, rock stairways, and a dance floor; potted plants, event tents, temporary restrooms, generators, lighting, tables and seating areas and related soil recontouring.
- 1.3 Take all steps necessary to comply with all of the terms and conditions of all other obligatory approvals or other necessary permits from State and local agencies having jurisdiction over this matter.
- 1.4 Fully and completely comply with the terms and conditions of Consent Restoration Order CCC-13-RO-06 as provided in Section 2.0, below.

2.0 CONSENT RESTORATION ORDER CCC-13-RO-06

Pursuant to its authority under PRC Section 30811, the Commission hereby orders and authorizes Respondents to restore the Property by complying with the Restoration Order described, and taking all other restorative actions listed, in Section 6.0, below, including through the conducting of actions that restore the Property to its condition as of March 1, 2013.

¹ As used herein, the term “Respondents” does not include owners of real property WTCC Ventana Investors V, LLC, or their respective successors, assigns, employees, agents or contractors (collectively, “Hotel Parties”).

3.0 NATURE OF ORDERS AND OF CONSENT

- 3.1 Through the execution of Consent Restoration Order CCC-13-RO-06 and Consent Cease and Desist Order CCC-13-CD-06 (hereinafter collectively referred to as “these Consent Orders”), Respondents agree to comply with the terms and conditions of these Consent Orders, provided that these Consent Orders are ultimately approved by the Commission. These Consent Orders authorize and require the removal and restoration activities, among other things, outlined in these Consent Orders. Any development subject to Coastal Act permitting requirements that is not specifically authorized under these Consent Orders requires a CDP. Nothing in these Consent Orders guarantees or conveys any right to development on the Property other than the work expressly authorized by these Consent Orders. Through the execution of these Consent Orders, Respondents agree to comply with these Consent Orders including the following terms and conditions, provided that these Consent Orders are ultimately approved by the Commission.
- 3.2 Respondents further agree to condition any contracts for work that could raise issues related to these Consent Orders upon an agreement that any and all employees, agents, and contractors; and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.
- 3.3 These Consent Orders resolve the Unpermitted Development specifically listed in Section 5.3, below, for both the Respondents and the Hotel Parties with respect to the preparations for the wedding that occurred on the Property on June 1, 2013. In addition, these Consent Orders resolve the monetary penalties for the non-operation of the campground at the Property from October 2007 to December 1, 2013 (“Campground Closure”). Notwithstanding the foregoing, in the event that the Hotel Parties execute the access agreement attached as Exhibit 1 no later than June 7, 2013, and in the event that the Hotel Parties and the Commission enter into a consent restoration order and/or consent cease and desist order (jointly “Hotel Consent Orders”) within 45 days of the adoption of these Consent Orders, then the Campground Closure shall be defined as the period from October 2007 through such other period as the Hotel Consent Orders provide that the campground shall be reopened to the public. These Consent Orders do not prevent the Commission from seeking or imposing non-monetary orders, remedial actions, or compliance obligations on the Hotel Parties related to the Campground Closure, nor do they prevent the Commission from seeking relief for any activities or conditions beyond the Campground Closure and Unpermitted Development.

PROVISIONS COMMON TO BOTH ORDERS

4.0 PERSONS SUBJECT TO THESE CONSENT ORDERS

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Sean Parker; all his successors, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing (collectively referred to as “Respondents”). Respondents will be held jointly and severally liable for all of the obligations in these Consent Orders.

5.0 DEFINITIONS

- 5.1 **“Consent Orders.”** Coastal Commission Cease and Desist Order No. CCC-13-CD-06 and Restoration Order No. CCC-13-RO-06 are collectively referred to in this document as the(se) Consent Orders.
- 5.2 **“The Property.”** The Property that is the subject of these Consent Orders is described as follows: Ventana Inn and Spa, 48123 Highway One, Big Sur, Monterey County, Assessor’s Parcel Numbers 419-321-002, 419-321-009, 419-321-010, 419-321-011, 419-321-012, 419-321-013, 419-321-015 and 419-321-006
- 5.3 **“Unpermitted Development”** means all “development,” as that term is defined in the Coastal Act (PRC section 30106), that has occurred on the Property from March 1, 2013 through June 1, 2013, that was undertaken by Respondents and/or the Hotel Parties in connection with the preparations for the wedding between Sean Parker and Alexandra Lenas (the “Wedding”) that occurred on June 1, 2013, and that allegedly required authorization pursuant to the Coastal Act, but for which no such authorization was obtained; and all action or inaction related to the Property during the same period that is inconsistent with the requirements of CDP No. 3-82-171, including the amendments thereto, and that are related to the Wedding, including, but not necessarily limited to: the temporary use of the campground from March 1, 2013, in connection with the Wedding; construction of multiple temporary structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created cottage and castle walls, rock stairways, and a dance floor and related soil recontouring; and installation of potted plants, event tents, temporary restrooms, generators, lighting, tables and seating areas.

6.0 REMOVAL AND RESTORATION PLAN

- 6.1 These Consent Orders require the preparation and implementation of a Removal, Temporary Erosion Control, Restoration and Contingency Plan (“Plan”) to remove items resulting from Unpermitted Development, and restore any impacted areas on the Property. Within seven (7) days of the effective date of these Consent Orders, Respondents shall submit the Plan for the review and approval of the Commission’s Executive Director. The Plan shall set forth the measures Respondents propose to use to remove the unpermitted items subject to these Consent Orders, install any necessary temporary erosion control measures, and restore and revegetate any areas that were impacted by the Unpermitted Development.

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6.2 GENERAL PROVISIONS

- A. The Plan shall outline all proposed removal activities, all proposed temporary erosion control measures to be implemented, and all restoration activities to address potential impacts caused by the Unpermitted Development or the removal activities.
- B. The Plan shall be prepared by a qualified restoration ecologist(s), resource specialist(s), and/or engineer ('Specialist'). The Plan shall include the qualification of the proposed Specialist, including a description of the proposed Specialist's educational background, training, and experience related to the preparation and implementation of the Plan described herein. To meet the requirements to be a qualified Specialist for this project, one must have experience successfully completing restoration or revegetation (using California native plant species) of coastal redwood habitats, preferably in the Big Sur region of Monterey County. If the Executive Director determines that the qualifications of Respondents' resource specialist is not adequate to conduct such restoration work, he/she shall notify Respondents and, within five (5) days of such notification, Respondents shall submit for the Executive Director's review and approval a different Specialist.
- C. The Plan shall include a schedule/timeline of activities, the procedures to be used, and identification of the parties who will be conducting the restoration activities. The schedule/timeline of activities covered by the Plan shall be in accordance with the deadlines included in Section 6.6, below.
- D. The Plan shall include a detailed description of all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including, but not limited to: geological stability, integrity of landforms, freedom from erosion, and the existing native vegetation. If the use of mechanized equipment is proposed, the Plan shall include limitations on the hours of operations for all equipment and a contingency plan that addresses, at a minimum: 1) impacts from equipment use, including disruption of areas where any necessary revegetation will occur, and responses thereto; 2) impacts of any potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; and 3) any potential water quality impacts. The Plan shall designate areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of graded materials, all of which shall be covered on a daily basis.

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- E. The Plan shall specify that no demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wind or runoff erosion and dispersion.
- F. The Plan shall indicate that all stock piles and construction materials shall be covered, enclosed on all sides, and located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- G. The Plan shall identify the location of the disposal site(s) for the off-site disposal of all materials removed from the Property and all waste generated during removal and restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing, licensed sanitary landfill, a coastal development permit is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility. The Plan shall also identify any materials that are to be removed and reused or otherwise not disposed as noted above, along with an identification of how those materials are being treated.
- I. The Plan shall specify the methods to be used during and after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The Plan shall specify the type and location of erosion control measures that will be installed on the subject properties and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment. Such measures shall remain in place and be maintained at all times during the removal process and during any revegetation that may be required pursuant to Section 6.5, below, and then shall be removed or eliminated by Respondents according to the approved Plan.

6.3 TEMPORARY EROSION CONTROL PLAN

- A. Respondents shall submit a Temporary Erosion Control Plan, prepared by a qualified Specialist, approved pursuant to Section 6.2(B), as part of the Plan, to address ground disturbance during any construction or restoration activities, and during the establishment of any vegetation planted pursuant to Section 6.5, below.
- B. The erosion control measures are required to be installed and fully functional on the Restoration Area prior to or concurrent with the initial remedial grading, removal, and restoration activities required by these Consent Orders and maintained throughout the restoration process to minimize erosion across the site and sedimentation of streams, tributaries, drains and culverts.

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- C. The Temporary Erosion Control Plan shall: 1) include a narrative report describing all temporary run-off and erosion control measures to be used during remedial grading/removal/restoration activities; 2) identify and delineate on a site or grading plan the locations of all temporary erosion control measures; and 3) specify that the remedial grading, removal work, and construction of the erosion control features shall take place only during the dry season (April 1- November 1). This period may be extended for a limited period of time pursuant to the provisions of Section 13.0, below.
- D. All temporary construction related erosion control materials shall be comprised of biodegradable materials and shall be removed from the construction site once the permanent erosion control features or native plant habitat are established.
- E. The Temporary Erosion Control Plan shall indicate that Respondents shall commence implementation of the Temporary Erosion Control Plan within no more than ten (10) days of approval of the Plan. Additionally, in those areas where erosion control measures may be immediately necessary, Respondents shall install said measures in a timely manner so as to avoid further resource impacts.

6.4 REMOVAL PLAN

- A. As part of the Plan, Respondents shall submit a Removal Plan, prepared by a qualified Specialist, approved pursuant to Section 6.2(B), to govern the removal and off-site disposal of all physical items that have come to rest on the Property as a result of Unpermitted Development required to be removed pursuant to these Consent Orders.
- B. The Removal Plan shall include a site plan showing the location and identity of all items resulting from Unpermitted Development to be removed from the Property.
- C. The Removal Plan shall indicate that removal activities shall not disturb areas outside of the Restoration Area. Measures for the restoration of any area disturbed by the removal activities shall be included within the Plan. These measures shall include the restoration of the areas from which the items resulting from Unpermitted Development were removed, and any areas disturbed by those removal activities.
- D. The Removal Plan shall include measures to protect all native habitat, including redwood and riparian vegetation, during removal activity.
- E. The plan shall indicate that Respondents shall commence removal of the physical items related to Unpermitted Development by commencing implementation of the Removal Plan no more than fourteen (14) days of

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approval of the Plan and conclude removal no more than forty-five (45) days of commencing implementation of the Removal Plan.

6.5 REMEDIAL ACTIONS

- A. As part of the Plan, Respondents shall submit a Remedial Restoration Plan (“Remedial Plan”) prepared by a qualified Specialist approved pursuant to Section 6.2(B) for the review and approval of the Commission’s Executive Director. The Remedial Plan shall include contingency measures to account for any impacts that are found to have occurred on the Property from either the Unpermitted Development or the implementation of the Removal and Erosion Control Plan.
- B. The Remedial Plan shall indicate that, within fourteen (14) days of final implementation of the Removal Plan (complete removal of all physical items related to Unpermitted Development), the qualified Specialist shall inspect the site and analyze the impacts to the coast redwood and riparian habitat caused by the Unpermitted Development and/or the effects of the actions required by the Removal and Temporary Erosion Control Plan. Within fourteen (14) days of the Specialist conducting the site inspection, Respondents shall submit, for the review and approval of the Executive Director, a final restoration report (“Final Report”) describing the methods required to ensure that areas impacted by the Unpermitted Development or by implementation of the Removal and Temporary Erosion Control Plan are restored to, at a minimum, the conditions of the Property prior to the pre-alleged violations taking place.
 - (1) The report shall include photographs taken prior to the placement of Unpermitted Development and after final removal of all Unpermitted Development. The photographs shall be taken from the same photo points, clearly showing the areas where Unpermitted Development occurred and from where such development was removed.

6.6 IMPLEMENTATION AND COMPLETION

- A. Upon approval of the Plan by the Executive Director, Respondents shall fully implement each phase of the Plan consistent with all of its terms, and the terms set forth herein. At a minimum, Respondents shall complete all erosion control and removal work described in the Plans no later than thirty (30) days after the Executive Director’s approval of the Removal Plan and Erosion Control Plan, whichever approval is later.
- B. Within thirty (30) days of the completion of the work described pursuant to each phase, Respondents shall submit, according to the procedures set forth under Section 6.7, a written report, prepared by a qualified Specialist, for the review and approval of the Executive Director, documenting all restoration work performed on the Property pursuant to the specific component of the

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Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations (as identified on a map submitted pursuant to the Plan), documenting implementation of the respective components of the Plan, as well as photographs of the Property before the work commenced and after it was completed.

C. The Executive Director may extend any deadline or modify any approved schedule in these Consent Orders for good cause pursuant to Section 13.0 of these Consent Orders.

6.7 All plans, reports, photographs and other materials required by these Consent Orders shall be sent to:

California Coastal Commission
Attn: Aaron McLendon
200 Oceangate, 10th Floor
Long Beach, CA 90802

With a copy sent to:

California Coastal Commission
Attn: Nancy Cave
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Additional Provisions Common to Both Orders

7.0 REVISION OF DELIVERABLES

The Executive Director may require revisions to deliverables under these Consent Orders, and Respondents shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director.

8.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to PRC Section 30810 and 30811. Respondents agree not to contest the Commission's jurisdiction to issue or enforce these Consent Orders.

9.0 RESOLUTION OF MATTER VIA SETTLEMENT

In light of the intent of the parties to resolve these matters in settlement, Respondents have not submitted a "Statement of Defense" form as provided for in Sections 13181 and 13191 of Title 14 of the California Code of Regulations ("14

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CCR”) and have agreed not to contest the legal and factual bases for, the terms of, or the issuance of these Consent Orders provided that these Consent Orders are ultimately approved and adopted by the Commission. Specifically, Respondents have agreed not to contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding. In addition, in order to expedite this process, Respondents have agreed not to contest commencement of proceedings to issue these Consent Orders without having first received a formal written notice of intent to commence cease and desist order and restoration order proceedings pursuant to 14 CCR Sections 13181 and 13191, respectively.

10.0 EFFECTIVE DATE AND TERMS OF THE CONSENT ORDERS

The effective date of these Consent Orders is the date the Commission votes to issue these Consent Orders. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

11.0 FINDINGS

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “Staff Report and Findings for Consent Cease and Desist Order No. CCC-13-CD- 06 and Consent Restoration Order No. CCC- 13 -RO- 06.” The activities authorized and required in these Consent Orders are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

12.0 SETTLEMENT/COMPLIANCE OBLIGATION

- 12.1 In light of the intent of the parties to resolve the Unpermitted Development and the monetary penalties for the Campground Closure in settlement, Respondents shall pay a monetary penalty settlement in the amount of \$1,000,000. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see PRC Section 30823), or to be directed to a project that benefits coastal access or recreation, or the protection of sensitive habitat in Monterey County subject to the review and approval of the Executive Director. The settlement payments shall be submitted to the Commission’s Long Beach Office, at the address provided in Section 6.7, to the attention of Aaron McLendon of the Commission, payable to the account designated under the Coastal Act or to the project as described above, no later than October 1, 2013. Settlement payments shall include a reference to the numbers of these Consent Orders.

- 12.2 In addition and in light of the intent of the parties to resolve the Unpermitted Development and the monetary penalties for the Campground Closure in settlement, Respondents have agreed to, or cause entities controlled by or directed

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by Respondents to, reserve and earmark and provide funding in the amount of a minimum of \$1,500,000 for one or more conservation or public access project(s) or program(s) (“Conservation Project”), subject to the approval of the Executive Director.

Any Conservation Project shall be implemented by non-profit organizations tax-exempt under IRC section 501(c)(3) or public agencies acceptable to the Executive Director (“Grantees”).

The Conservation Project(s) shall be for the provision of “lower cost” access and recreation or conservation of coastal resources, which may involve, but are not limited to: purchase conservation easements or make property acquisitions, to acquire public coastal access easements or trails, to implement public access improvement projects, to facilitate public access campground facilities (such as operating a free camping facility for underserved communities, such as children in low income areas), to fund other programs that facilitate public access to underserved communities to the coastal zone, and other projects that advance conservation or public access, in each case in the Big Sur and the Commission’s North Central Coast District area.

Respondents, in consultation with Commission staff, shall develop a proposal for the expenditure of the funds, including the description of the Conservation Project(s) and the identity of the Grantees, and shall submit such proposal within 90 days of the effective date of these Consent Orders.

Upon approval of the plan by the Executive Director, Respondents shall secure the above funding such that the funds are transferred to the Grantees for the Conservation Project(s) consistent with the approved plan within one (1) year of the approval of the plan by the Executive Director, which time period may be extended by the Executive Director in order to facilitate the undertaking of the approved Conservation Project(s). If the projects so approved to do not exhaust the \$1,500,000 reserved and earmarked, additional projects shall be proposed, and the same process shall be followed, until all the funds are expended.

Respondents shall ensure that the agreements between the Respondents and the Grantees regarding the funding for any such Conservation Project will require the Grantee to: (a) use the grant funds only for the Conservation Project and repay to Respondents any portion of the grant funds not spent for the Conservation Project; (b) submit to the Respondents and the Executive Director a quarterly written report containing a description of the progress that the Grantee has made on the Conservation Project and a financial accounting of Grantee’s expenditure of the grant funds for any period during which Grantee receives, holds, or spends any of the grant funds; and (c) treat the grant funds as restricted assets and maintain books and records showing the grant funds separately.

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- 12.3 Furthermore, and in light of the intent of the parties to resolve the Unpermitted Development and the monetary penalties for the Campground Closure in settlement, Respondents offered to, and therefore shall, fund and implement a public education and communications program focused on coastal conservation and/or public access (“Public Education Communication Program”). Unless the alternative Public Education Program set forth in the following paragraph is mutually agreed upon by Respondents and Commission staff within 90 days of the effective date of these Consent Orders, such Public Education Communication Program shall be the creation, production, and online distribution of an online public education video, to be developed in consultation with the Commission staff (“Option A”). In developing Option A, Respondents shall submit to the Executive Director for review and approval the name of a non-profit 501(c)(3) partner with expertise in public education with respect to conservation issues (“Respondents’ Partner”) within three months of the effective date of the Consent Orders to partner in the completion of Option A. Within 6 (six) months of the effective date of the Consent Orders, Respondents and its Respondents’ Partner shall present three to five video concepts to the Executive Director, and each video concept shall include a description of the video concept and a draft video script. Respondents and Respondents’ Partner shall consult with the Executive Director in the selection of a final single video concept and script. Within 6 (six) months of the Executive Director’s approval of a final single video concept and script for production, Respondents and Respondents’ Partner shall produce the selected video and present to Commission staff and the Executive Director for approval a proposed plan for online distribution of the video and advertising designed to achieve 100,000 online views of the video (“Final Distribution Plan”). Upon approval of the Final Distribution Plan by the Executive Director, Respondents and Respondents’ Partner shall commence work on the Final Distribution Plan within 90 days and shall complete Option A in accordance with the terms of the Final Distribution Plan.

In lieu of implementing Option A, pursuant to the mutual agreement of Respondents and Commission staff, Respondents may elect, within 90 days of the effective date of these Consent Orders, an alternative Public Education Communication Program, with the aim of making information about coastal access points more readily available to the public by integrating the Commission’s coastal access point data with an existing location-based computer mapping application for mobile iOS, or, to the extent that such an app does not exist, then via the development of such a mapping app for iOS devices. The app, either third party or custom built for this purpose, will identify existing dedicated vertical coastal access points and lateral access areas in California and allow users to identify coastal access points and areas in proximity to the users’ locations (“Option B”). In order to evaluate Option B, Commission staff shall provide Respondents with all necessary information to develop Option B within 30 days of the effective date of these Consent Orders. If Option B is selected within 90 days of the effective date of these Consent Orders, Option B shall be produced

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and provided to Commission staff within 24 months of the effective date of these Consent Orders.

If the Executive Director and Respondents agree that neither Option A nor Option B are feasible, within 30 days of reaching mutual conclusion that both Option A and Option B are infeasible, Respondents shall submit, for the review and approval of the Executive Director, a project of similar value and of similar educational intent.

- 12.4 Strict compliance with these Consent Orders by all parties subject hereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension under Section 13.0, will constitute a violation of these Consent Orders and shall result in Respondents being liable for stipulated penalties in the amount of \$1,000 per day per violation. Respondents shall pay stipulated penalties regardless of whether Respondents have subsequently complied. If Respondents violate these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30820, 30821.6, and 30822 as a result of the lack of compliance with the Consent Orders and for the underlying alleged Coastal Act violations described herein.

13.0 DEADLINES

Prior to the expiration of the deadlines established by these Consent Orders, Respondents may request from the Executive Director an extension of the unexpired deadlines. Such a request shall be made in writing as early as possible and received by the Executive Director at least three days in advance of the deadline, and directed to the Executive Director, care of Aaron McLendon at the address identified in Section 6.7, above. The Executive Director may grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under these Consent Orders, but cannot meet deadlines due to unforeseen circumstances beyond their control. A violation of deadlines established pursuant to these Consent Orders will result in stipulated penalties, as provided for in Section 12.4, above.

14.0 SEVERABILITY

Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but the Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

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15.0 SITE ACCESS

While not the property owner, during the time in which they are authorized by the property owner to use the Property, Respondents shall provide access to the Property at all reasonable times to Commission staff and any other agency having jurisdiction over the work being performed under these Consent Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. Commission staff may enter and move freely about the portions of the Property on which the alleged violations are located, and on adjacent areas of the Property for purposes, including, but not limited to: viewing the areas where development is being performed pursuant to the requirements of these Consent Orders; inspecting records, operating logs, and contracts relating to the site; and overseeing, inspecting, and reviewing the progress of Respondents' implementation of the Plan and compliance with these Consent Orders.

16.0 GOVERNMENT LIABILITIES

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to these Consent Orders.

17.0 SETTLEMENT VIA CONSENT ORDERS

In light of the desire to settle the Unpermitted Development and monetary penalties related to the Campground Closure via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondents hereby agree not to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

18.0 SETTLEMENT OF CLAIMS

The Commission and Respondents agree that these Consent Orders settle the Commission's monetary claims for relief from Respondents and the Hotel Parties for the alleged violations of the Coastal Act specifically listed in Section 5.3, above, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822) and monetary penalties related to the Campground Closure, provided that the Plan discussed in Section 6.0 is fully implemented and the obligations in Section 12.0 are fully satisfied, and with the exception that, if Respondents fail to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the Unpermitted Development and for the

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violation of these Consent Orders from Respondents. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to alleged Coastal Act violations on the Property beyond those that are the subject of these Consent Orders.

19.0 CONTRACTUAL OBLIGATION

These Consent Orders constitute both an administrative order issued to Respondents personally and a contractual obligation between Respondents and the Commission, and therefore shall remain in effect until all terms are fulfilled, regardless of whether Respondents have a financial interest in the Property or any other property within the Coastal Zone.

20.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 13.0 and for other minor, non-substantive modifications, subject to agreement between the Executive Director and Respondents, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in 14 CCR Section 13188(b) and Section 13197.

21.0 GOVERNMENT JURISDICTION

These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

22.0 LIMITATION OF AUTHORITY

22.1 Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.

22.2 Correspondingly, Respondents have entered into these Consent Orders and waived their right to contest the factual and legal bases for issuance of these Consent Orders, and the enforcement thereof according to its terms provided that these Consent Orders are ultimately approved and adopted by the Commission. Respondents have agreed not to contest the Commission's jurisdiction to issue and enforce these Consent Orders provided that these Consent Orders are ultimately approved and adopted by the Commission.

23.0 INTEGRATION

These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.

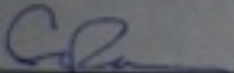
APPENDIX A

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

24.0 STIPULATION

Respondents and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to their issuance by the Commission.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:



Mr. Sean Parker

5/30/13

Date

Executed in Long Beach, CA on behalf of the California Coastal Commission:

Charles Lester, Executive Director

Date

APPENDIX A

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)
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Exhibit 1

APPENDIX A

**CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker
and Neraida LLC); CCC-13-CD-07 & CCC-
RO-07 (WTCC Ventana Investors V, LLC)**

NON-INTERFERENCE AGREEMENT

This Noninterference Agreement ("Agreement") is entered into by and among WTCC Ventana Investors V, LLC ("Owner"); and Sean N. Parker, Neraida LLC, and their assigns, employees, agents, contractors and persons acting in concert with the foregoing ("Parker").

In consideration for Parker's efforts to effectuate removal of unpermitted development from Owner's property at the Ventana Inn (the "Property"), Owner hereby agrees not to impede Parker's ability to access and perform work on the Property, as necessary, after the June 1, 2013 wedding between Sean Parker and Alexandra Lenas, in order to restore the Property to its pre-March, 2013 condition and, if required, to monitor the effectiveness of such restoration.

This agreement may be executed in counterparts, each of which shall be considered a duplicate original.

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

All Parties to this Agreement represent and warrant that they have been afforded adequate opportunity to and have in fact reviewed the contents of this Agreement with counsel of their own choosing and accept the terms and conditions hereof based upon such advice of counsel.

WTCC VENTANA INVESTORS V, LLC

By: _____

Its: _____

Date: _____

SEAN N. PARKER and NERAIDA LLC

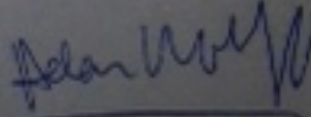
By:  _____

SEAN PARKER

For himself and as Secretary of Neraida LLC

Helen Wolff

Date: 4/30/13


Helen Wolff

APPENDIX A

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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| <p style="text-align: center;">CONSENT CEASE AND DESIST ORDER CCC-13-CD-07 AND CONSENT RESTORATION ORDER CCC-13-RO-07</p> |
|--|

1.0 CONSENT CEASE AND DESIST ORDER CCC-13-CD-07

Pursuant to its authority under California Public Resources Code (“PRC”) Section 30810, the California Coastal Commission (“Commission”) hereby orders and authorizes WTCC Ventana Investors V, LLC and all its successors, assigns, employees, agents, contractors, and any persons acting in concert with any of the foregoing, (hereinafter collectively referred to as “Ventana”) to:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, that would normally require a coastal development permit (“CDP”) on any of the property identified in Section 5.2 below (the Property”), unless authorized pursuant to the Coastal Act (PRC Sections 30000-30900), which includes through these Consent Orders.
- 1.2 Fully and completely comply with the terms and conditions of CDP No. 3-82-171, as amended.
- 1.3 Within the deadlines described herein, fully implement the projects described in Section 12.1, below.
- 1.4 Fully and completely comply with the terms and conditions of Consent Restoration Order CCC-13-RO-07 as provided in Section 2.0, below.

2.0 CONSENT RESTORATION ORDER CCC-13-RO-07

Pursuant to its authority under PRC Section 30811, the Commission hereby orders and authorizes Ventana to:

- A. Allow Sean Parker; Neraida LLC; and all their employees, agents, and contractors (“Parker”) access to the Property for the purpose of conducting the restorative work on the Property outlined in Consent Cease and Desist Order No. CCC-13-CD-06 and Consent Restoration Order CCC-13-RO-06 (“the Parker Orders”), and performing any maintenance or monitoring required by the Parker Orders.
- B. Not block or impede the ability of Parker to perform and carry out the approved Restoration Plan consistent with the Parker Orders.
- C. Cooperate with the implementation of the Restoration Plan prepared by Parker.
- D. Allow the Executive Director of the Commission, and/or his designees access to the Property for purposes of inspecting the Property to assess compliance with the Parker Orders.

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

E. Otherwise comply with the requirements of section 12, below.

3.0 NATURE OF ORDERS AND OF CONSENT

- 3.1 Through the execution of Consent Cease and Desist Order CCC-13-CD-07 and Consent Restoration Order CCC-13-RO-07 (hereinafter collectively referred to as “these Consent Orders”), Ventana agrees to comply with the terms and conditions of these Consent Orders, provided that these Consent Orders are ultimately approved by the Commission. These Consent Orders authorize and require the activities, among other things, outlined in these Consent Orders. Any development subject to Coastal Act permitting requirements that is not specifically authorized under these Consent Orders requires a CDP. Nothing in these Consent Orders guarantees or conveys any right to development on the Property other than the work expressly authorized by these Consent Orders. Through the execution of these Consent Orders, Ventana agrees to comply with these Consent Orders, including the following terms and conditions, provided that these Consent Orders are ultimately approved by the Commission.
- 3.2 Ventana further agrees to condition any contracts for work that could raise issues related to these Consent Orders upon an agreement that any and all employees, agents, and contractors; and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.
- 3.3 These Consent Orders are intended to resolve the Unpermitted Development specifically listed in Section 5.3, below. In addition, these Consent Orders resolve the penalties for the non-operation of the campground at the Property from on or about September 2007 through the earlier of the time the campground is reopened or October 1, 2014 (“Campground Closure”). If the campground is not reopened by October 1, 2014, any further delay will be addressed through an application for an amendment, as required by the last subsection of Special Condition 1 (“Approved Development”) of CDP No. 3-82-171, as amended.

PROVISIONS COMMON TO BOTH ORDERS

4.0 PERSONS SUBJECT TO THESE CONSENT ORDERS

WTCC Ventana Investors V, LLC, and all its successors and assigns (the “Business”), as well as its employees, agents, and contractors, and any persons acting in concert with any of the foregoing shall be subject to these Consent Orders. The Business will be held jointly and severally liable for all of the obligations in these Consent Orders.

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)
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5.0 DEFINITIONS

- 5.1 **“Consent Orders.”** Coastal Commission Cease and Desist Order No. CCC-13-CD-07 and Restoration Order No. CCC-13-RO-07 are collectively referred to in this document as the(se) Consent Orders.
- 5.2 **“The Property.”** The Property that is the subject of these Consent Orders is described as follows: Ventana Inn and Spa, 48123 Highway One, Big Sur, Monterey County, Assessor’s Parcel Numbers 419-321-002, 419-321-009, 419-321-010, 419-321-011, 419-321-012, 419-321-013, 419-321-015 and 419-321-006
- 5.3 **“Unpermitted Development”** means all “development,” as that term is defined in the Coastal Act (PRC section 30106), that has occurred on the Property from March 1, 2013 through June 1, 2013, that was undertaken by Sean Parker and/or Ventana in connection with the preparations for the wedding between Sean Parker and Alexandra Lenas (the “Wedding”) that occurred on June 1, 2013, and that allegedly required authorization pursuant to the Coastal Act, but for which no such authorization was obtained; and all action or inaction related to the Property during the same period that is inconsistent with the requirements of CDP No. 3-82-171, including the amendments thereto, and that are related to the Wedding, including, but not necessarily limited to: the temporary use of the campground from March 1, 2013, in connection with the Wedding; construction of multiple temporary structures including a gateway and arch, an artificial pond, a stone bridge, multiple event platforms with elevated floors, rock walls, artificially created cottage and castle walls, rock stairways, and a dance floor and related soil recontouring; and installation of potted plants, event tents, temporary restrooms, generators, lighting, tables and seating areas.

Additional Provisions Common to Both Orders

6.0 SUBMITTAL OF DOCUMENTS

- 6.1 All plans, reports, photographs and other materials required by these Consent Orders shall be sent to:

California Coastal Commission
Attn: Aaron McLendon
200 OceanGate, 10th Floor
Long Beach, CA 90802

With a copy sent to:

California Coastal Commission
Attn: Nancy Cave
45 Fremont Street, Suite 2000
San Francisco, CA 94105

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

7.0 REVISION OF DELIVERABLES

The Executive Director may require revisions to deliverables under these Consent Orders, and Ventana shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director.

8.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to PRC Section 30810 and 30811. Ventana agrees not to contest the Commission's jurisdiction to issue or enforce these Consent Orders.

9.0 RESOLUTION OF MATTER VIA SETTLEMENT

In light of the intent of the parties to resolve these matters in settlement, Ventana has not submitted a "Statement of Defense" form as provided for in Sections 13181 and 13191 of Title 14 of the California Code of Regulations ("14 CCR") and has agreed not to contest the legal and factual bases for, the terms of, or the issuance of these Consent Orders, provided that these Consent Orders are ultimately approved and adopted by the Commission. Specifically, Ventana has agreed not to contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding. In addition, in order to expedite this process, Ventana has agreed not to contest commencement of proceedings to issue these Consent Orders without having first received a formal written notice of intent to commence cease and desist order and restoration order proceedings pursuant to 14 CCR Sections 13181 and 13191, respectively.

10.0 EFFECTIVE DATE AND TERMS OF THE CONSENT ORDERS

The effective date of these Consent Orders is the date the Commission votes to issue these Consent Orders. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

11.0 FINDINGS

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “Staff Report and Findings for Consent Cease and Desist Order No. CCC-13-CD- 06, Consent Cease and Desist Order No. CCC-13-CD- 07, Consent Restoration Order No. CCC- 13 -RO- 06, and Consent Restoration Order No. CCC- 13 -RO- 07.” The activities authorized and required in these Consent Orders are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. Ventana has neither seen nor reviewed the above-referenced Staff Report and has not necessarily agreed with said Staff Report, but agrees that the Commission has met all jurisdictional requirements.

12.0 SETTLEMENT/COMPLIANCE OBLIGATION

In light of the intent of the parties to resolve the Unpermitted Development and the Campground Closure in settlement, Ventana shall, within 60 days of issuance of these Consent Orders, submit a plan (the “Plan”) for the review and approval of the Executive Director that includes the following elements:

12.1 TRAILS

- A. Ventana shall provide, improve, and maintain a natural surface off-pavement single-track public access trail (a minimum of 5’ in width where feasible) extending from the Cadillac Flats trailhead parking area in an easterly direction along Coast Ridge Road and joining the Coast Ridge Trail at the area immediately east of the driveway to the Ventana Inn and Spa and restaurant, as generally depicted on Exhibit 1 of these Consent Orders. The trail shall be sited and designed to blend seamlessly with the natural environment and topography as much as possible. This trail segment shall be referenced as the Coast Ridge Trail.
- B. Ventana shall provide, improve and maintain a natural surface off-pavement single-track public access trail (a minimum of 5’ in width where feasible) extending from Cadillac Flats through the Bay laurel trees on the north side of the paved road to the Ventana Campground, and from there further extending northwards roughly parallel to Post Creek to the Ventana property line, as generally depicted on Exhibit 1 of these Consent Orders. The trail shall be sited and designed to blend seamlessly with the natural environment and topography as much as possible. This trail segment shall be referenced as the Post Creek Trail.
- C. Ventana shall work with the State of California Department of Parks and Recreation or the owner of this property adjacent to the Ventana property, to continue the trail identified in 12.1.B (i.e., the Post Creek Trail) across the property by providing, improving and maintaining a natural surface off-pavement

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

single-track public access trail (a minimum of 5' in width where feasible) extending from the Post Creek Trail where it meets the Ventana property line to the Pine Ridge Trail (a distance of approximately 1.15 miles) if the property owner agrees. If appropriate after discussions with the property owner, if it is evident that another alignment would be more suitable, subject to the approval of the Executive Director and the property owner, this trail segment could be realigned. The trail shall be sited and designed to blend seamlessly with the natural environment and topography as much as possible. This trail segment shall be referenced as the Post Creek Trail.

- D. Ventana shall submit a proposed deed restriction to the Executive Director, for review and approval, indicating that the new trail link described in Sections 12.1.A and B shall remain unimpeded and open for public use (including, but not limited to, hiking and passive recreational use in perpetuity), except to the extent such areas are already subject to a deed restriction or easement for public trail purposes. Ventana shall use good faith efforts to record it free of prior liens and encumbrances that the Executive Director determines could impair the effectiveness of the document and shall do so within six months from the Executive Director's approval of the language for the deed restriction. The deed restriction shall not be altered or removed without prior Commission approval. If Ventana cannot record free of such, Ventana will propose a similar trail or alternate project of equal value to the Executive Director for approval for the replacement of this requirement.

12.2 SIGNS

Ventana shall install signs in the following locations (as generally depicted on Exhibit 1 of these Consent Orders), the design and content of which will be subject to the review and approval of the Executive Director, and which may be on or adjacent to Ventana's signage and consistent with such signage: 1) visible from Highway One at the entrance to Ventana, a sign identifying the entrance road as the way to get to the "Public Coast Ridge and Post Creek Trailheads"; 2) on the Ventana entrance road, a sign identifying the correct direction to get to the "Ventana Campground" and the "Coast Ridge and Post Creek Public Trailheads"; 3) at Cadillac Flats, a sign identifying it for "Trailhead Public Parking"; 4) at the Cadillac Flats parking area, a sign pointing the way to the "Ventana Campground" and the "Coast Ridge Trail"; 5) at the Cadillac Flats parking area, a sign pointing the way to and identifying the area of which it is pointing as the "Post Creek Trail"; 6) on or near the Coast Ridge Road gate near the Ventana property line, a "Public Coast Ridge Trail" sign directing users downcoast, with an added caution "Please Stay on Trail and Respect Adjacent Private Property"; 7) a wayfinding sign roughly half way between the Cadillac Flats parking area and the campground providing direction to the "Ventana Campground" and the "Post Creek Trail"; 8) where the trail will cross the paved campground entry road, directional signs indicating "Post Creek Trail"; 9) at critical branch trail junctions (such as at the Big Sur Bakery/Post Office branch), but including all such junctions, even if not depicted on Exhibit 1 of these Consent Orders, directional signs indicating

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

“Post Creek Trail”; 10) at the Pine Ridge Trail junction, directional signs indicating “Post Creek Trail” and “Pine Ridge Trail” and “Big Sur Station”. Ventana shall use its best efforts and do whatever is within its powers to secure removal of the “No Trespassing” and other like signs that discourage public access to public lands or public rights-of-way that are located on and/or near the Coast Ridge Road Gate; 11) a “Ventana Campground” sign at the campground entrance; and 12) an interpretive panel at the Cadillac Flats parking area describing the history, flora, fauna and other relevant information associated with the site. The Ventana Campground sign and the interpretive panel shall include the California Coastal Commission emblem and recognition of the Coastal Commission’s role in providing public access at the Property, and the trail signs shall include that and the California Coastal Trail emblem. Some of these proposed signs are not located on Ventana’s property. Ventana will use reasonable efforts to obtain the consent of the applicable property owner(s) to install sign(s) that are not located on property Ventana owns. If desired, Ventana may propose additional signage so that when the public parking at Cadillac Flats is full, the public will be directed that there is no additional public parking available on the Ventana property and that there is a public parking lot at Big Sur Station (e.g. “Additional Public Parking at Big Sur Station”).

12.3 PUBLIC ACCESS/RECREATION GUIDE

Ventana shall create a Ventana Public Access and Campground Experience Guide, detailing the amenities, trails, history, flora, fauna and other pertinent information for the public, subject to approval by the Executive Director. The Guide shall include the California Coastal Commission emblem and recognition of the Coastal Commission’s role in providing public access at the Property, and the trail description shall also include the California Coastal Trail emblem. The brochure shall be made available to campground visitors, hotel guests and the general public. In addition to the printed version, it shall be created in a format downloadable to handheld e-devices.

12.4 CAMPGROUND

A. Ventana shall improve the utility and ambiance of the Ventana Campground, including by:

- i. Upgrading restrooms.
- ii. Upgrading entry kiosk.
- iii. Providing “walk up” campsite options that will offer the public another unique experience.
- iv. Installing signs to help direct users (to sites, parking, trails, restaurant, etc.).
- v. Improving campsites that will offer more of a wilderness experience by reducing parking spots directly at campsites. Any future improvements to the campsites shall be done in a manner that addresses erosion.

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

- B. Ventana shall re-open the campground on the Property for public use as soon as feasible and if at all possible by October 15, 2013, but in no event later than 30 days after the order to close the campground is lifted.

12.5 PUBLIC ACCESS MANAGEMENT PLAN

Ventana shall submit a plan summarizing all public access and recreation opportunities available on the Property. The plan shall (i) describe the number of camping spaces, including provisions regarding year round camping, (ii) hours of operation, (iii) available hiking and equestrian trails, (iv) public parking at Cadillac Flats, for no more than seven days per vehicle, and (v) all other public amenities on the site. The plan shall demonstrate compliance with Coastal Development Permit 3-82-171, as amended.

12.6 NON-NATIVE PLANT ERADICATION

Ventana shall submit a long-term plan for reduction of invasive, non-native species on the Property. Emphasis shall be placed on species that contribute to hazardous wildland fuel loading (e.g. *Genista sp.* ("broom")). Ventana shall consult with Calfire and/or USFS as appropriate, and with the Big Sur Volunteer Fire Brigade, regarding plan content.

12.7 IMPLEMENTATION

Upon approval by the Executive Director of the Plan submitted pursuant to Section 12, above, Respondents shall fully implement each phase of the Plan consistent with all of its terms, and the terms set forth herein. Approval and implementation of any of the elements of the Plan shall not require an amendment to Ventana's Coastal Development Permit, as amended, or any other approval by the California Coastal Commission, by virtue of this inclusion in these Consent Orders. At a minimum, Respondents shall complete and implement each project listed above within 90 days of approval of the Plan, unless (i) such deadline is extended by the Executive Director for the implementation of specific projects, (ii) if Section 12 or the Plan identifies a different deadline, or (iii) if implementation of a project requires the approval of a governmental body (e.g., the California Coastal Commission, the California Regional Water Quality Control Board, the County of Monterey, etc.). In such case, Ventana will use diligent efforts to apply for and obtain such governmental approvals, and Ventana shall complete such specific project that requires the approval of a governmental body within a reasonable time after such other governmental body provides the required authorization to proceed with implementation of the specific project.

- 12.8 Strict compliance with these Consent Orders by all parties subject hereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

extension under Section 13.0, will constitute a violation of these Consent Orders and shall result in Ventana being liable for stipulated penalties in the amount of \$500 per day per violation. Ventana shall pay stipulated penalties regardless of whether Ventana has subsequently complied. If Ventana violates these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30820, 30821.6, and 30822 as a result of the lack of compliance with the Consent Orders and for the underlying alleged Coastal Act violations described herein.

13.0 DEADLINES

Prior to the expiration of the deadlines established by these Consent Orders, Ventana may request from the Executive Director an extension of the unexpired deadlines. Such a request shall be made in writing and received by the Executive Director 10 days in advance of the deadline, and directed to the Executive Director, care of Aaron McLendon at the address identified in Section 6.0, above. The Executive Director may grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Ventana has diligently worked to comply with their obligations under these Consent Orders, but cannot meet deadlines due to unforeseen circumstances beyond their control.

14.0 SEVERABILITY

Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but the Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

15.0 SITE ACCESS

Ventana shall provide access to the Property at all reasonable times to Commission staff and any other agency having jurisdiction over the work being performed under these Consent Orders or the Parker Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. Commission staff may enter and move freely about the portions of the Property on which the alleged violations are located, and on adjacent areas of the Property for purposes, including, but not limited to: viewing the areas where development is being performed pursuant to the requirements of these Consent Orders or the Parker Orders; inspecting records, operating logs, and contracts relating to the site; and overseeing, inspecting, and reviewing the progress of Parker implementing the Restoration Plan and compliance with these Consent Orders or the Parker Orders.

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

16.0 GOVERNMENT LIABILITIES

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Ventana in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Ventana or their agents in carrying out activities pursuant to these Consent Orders.

17.0 SETTLEMENT VIA CONSENT ORDERS

In light of the desire to settle the Unpermitted Development and the Campground Closure via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Ventana hereby agree not to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

18.0 SETTLEMENT OF CLAIMS

The Commission and Ventana agree that these Consent Orders settle the Commission's claims against Ventana for restoration of the Property and for monetary relief (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822)¹ in each case as a result of the Unpermitted Development, as well as for the Campground Closure, with the exception that, if Ventana fails to comply with any term or condition of these Consent Orders, the Commission may, at its option, either enforce the requirements of these Consent Orders related thereto or seek non-monetary relief that the Executive Director determines is reasonably proportional in scope to the Coastal Act violations that the unsatisfied obligations of these Consent Orders were intended to address. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to alleged Coastal Act violations on the Property beyond those that are the subject of these Consent Orders.

19.0 SUCCESSORS AND ASSIGNS

These Consent Orders shall run with the land, binding Ventana, including successors in interest, heirs, assigns, and future owners of the Property. Ventana agrees that they will provide notice to all successors, assigns, and potential purchasers of the Property of any remaining obligations under these Consent Orders. These Consent Orders are a

¹ The portion of this release that covers Ventana's monetary liability (per sections 30820 and 30822) duplicates the release provided in the separate orders the Commission is issuing to Sean N. Parker for both the Unpermitted Development and Campground Closure on the same day regarding related matters (CCC-13-CD-06 and CCC-13-RO-06). The two releases are intended to be substantively the same, and either release is independently sufficient to release Ventana of its liability.

APPENDIX B

personal legal obligation and Ventana is responsible for the work required by these Consent Orders without regard to the ownership of the Property.

20.0 CERTIFICATION OF AUTHORITY

Signatory attests that he/she has the legal authority to bind WTCC Ventana Investors V, LLC and represents that the aforementioned party owns all properties subject to this action.

21.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 13.0 and for other minor, non-substantive modifications, subject to agreement between the Executive Director and Ventana, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in 14 CCR Section 13188(b) and Section 13197.

22.0 GOVERNMENT JURISDICTION

These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

23.0 LIMITATION OF AUTHORITY

23.1 Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.

23.2 Correspondingly, Ventana has entered into these Consent Orders and waived their right to contest the factual and legal bases for issuance of these Consent Orders, and the enforcement thereof according to its terms, provided that these Consent Orders are ultimately approved and adopted by the Commission. Ventana has agreed not to contest the Commission's jurisdiction to issue and enforce these Consent Orders, provided that these Consent Orders are ultimately approved and adopted by the Commission.

24.0 INTEGRATION

These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.

25.0 STIPULATION

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Ventana and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to their issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

WTCC VENTANA INVESTORS V, L.L.C.,
a Delaware limited liability company

By: _____
Justin Leonard
Vice President

Date

Executed in Long Beach, CA on behalf of the California Coastal Commission:

Charles Lester, Executive Director

Date

APPENDIX B

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07
(WTCC Ventana Investors V, LLC)

Ventana and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to their issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

WTCC VENTANA INVESTORS V, L.L.C.,
a Delaware limited liability company

By: _____

Justin Leonard
Vice President

5/31/13
Date

Executed in Long Beach, CA on behalf of the California Coastal Commission:

Charles Lester, Executive Director

Date

F-577

T-156 P.002/002

831-4274877

From-Coastal Commission

02:52pm

May-28-13

S.R.L. lands
Ridge Trail

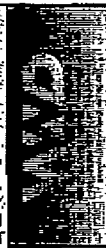
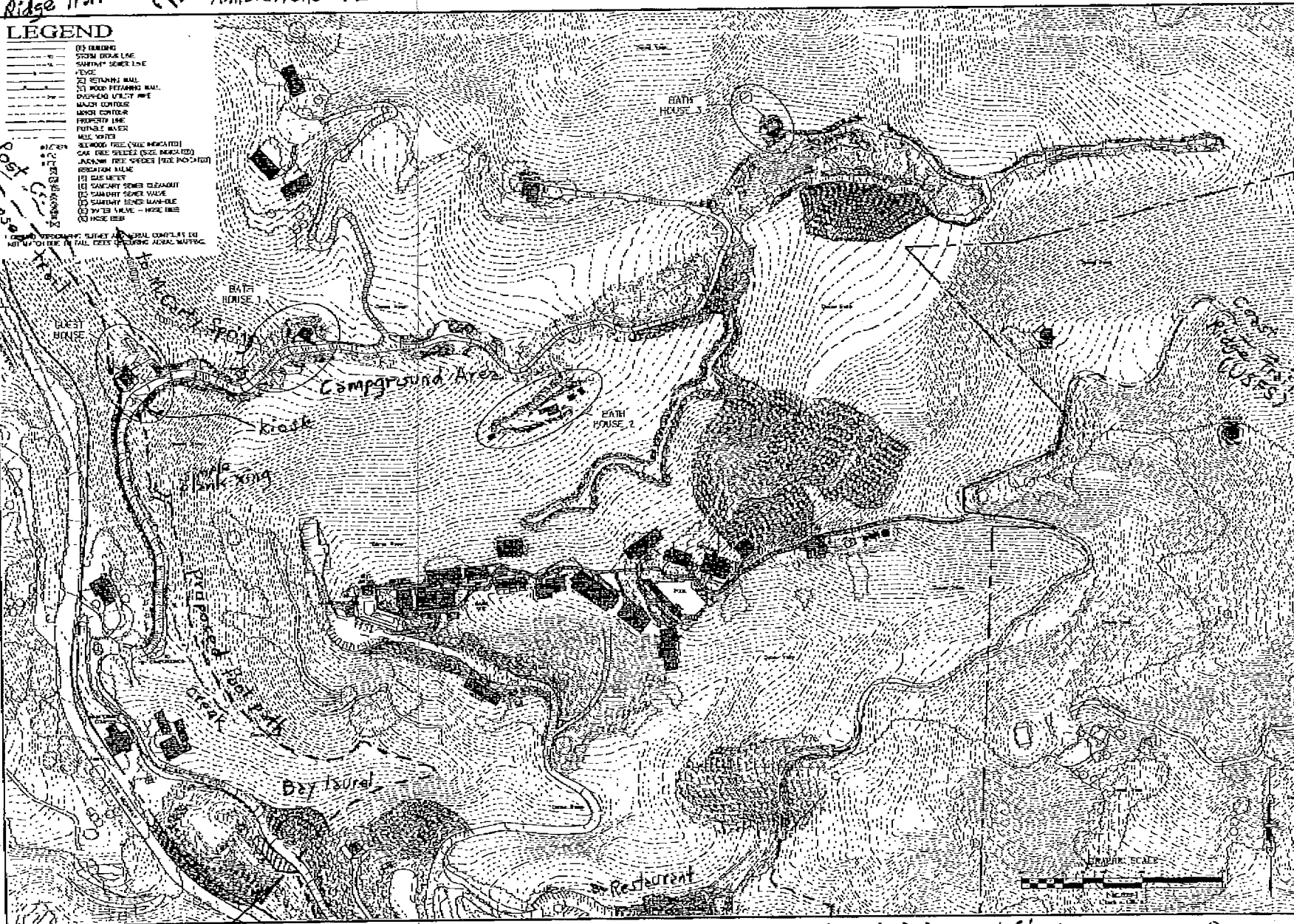


Annotations 5/28/2013 L. Otter

LEGEND

- (1) BUILDING
- STORM DRAIN LINE
- SEWAGE LINE
- FEDE
- (2) RETAINING WALL
- (3) POOL/STILLING BASIN
- DRAINAGE UTILITY PIPE
- WASH CONTAINER
- WASH CONTAINER
- PROPERTY LINE
- PUMP/ST. WATER
- WELL WATER
- SEWERAGE TEE (SIZE INDICATED)
- CAR FREE ZONE (SIZE INDICATED)
- JACKMAN TEE (SIZE INDICATED)
- SEWAGE TEE (SIZE INDICATED)
- SEWAGE TEE (SIZE INDICATED)
- (1) GAS METER
- (1) SANITARY POWER CLEANOUT
- (1) SANITARY TEE VALVE
- (1) SANITARY TEE VALVE
- (1) WATER VALVE - HOUSE USE
- (1) HOUSE USE

NOT TO SCALE. ALL DISTANCES ARE APPROXIMATE. ALL DISTANCES ARE APPROXIMATE.



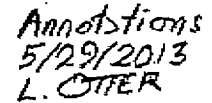
| | |
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| CAL | NO |
| DRAWN BY: | NO |
| DATE: | NO |
| SCALE: | NO |
| LAST REVISION: | NO |
| REVISION BY: | NO |

OVERALL SITE PLAN
COUNT 3500
LINE 1000

TOPOGRAPHIC SURVEY
VENTANA INN
BIG SUR, CA

SHEET C1
OF
5 SHEETS

Hwy. 1
Cadillac Flat trailhead parking
proposed connecting trail to Coast Ridge Trail gate.
Coast Ridge Trail (# admin. access road)



PROPERTY LOCATION

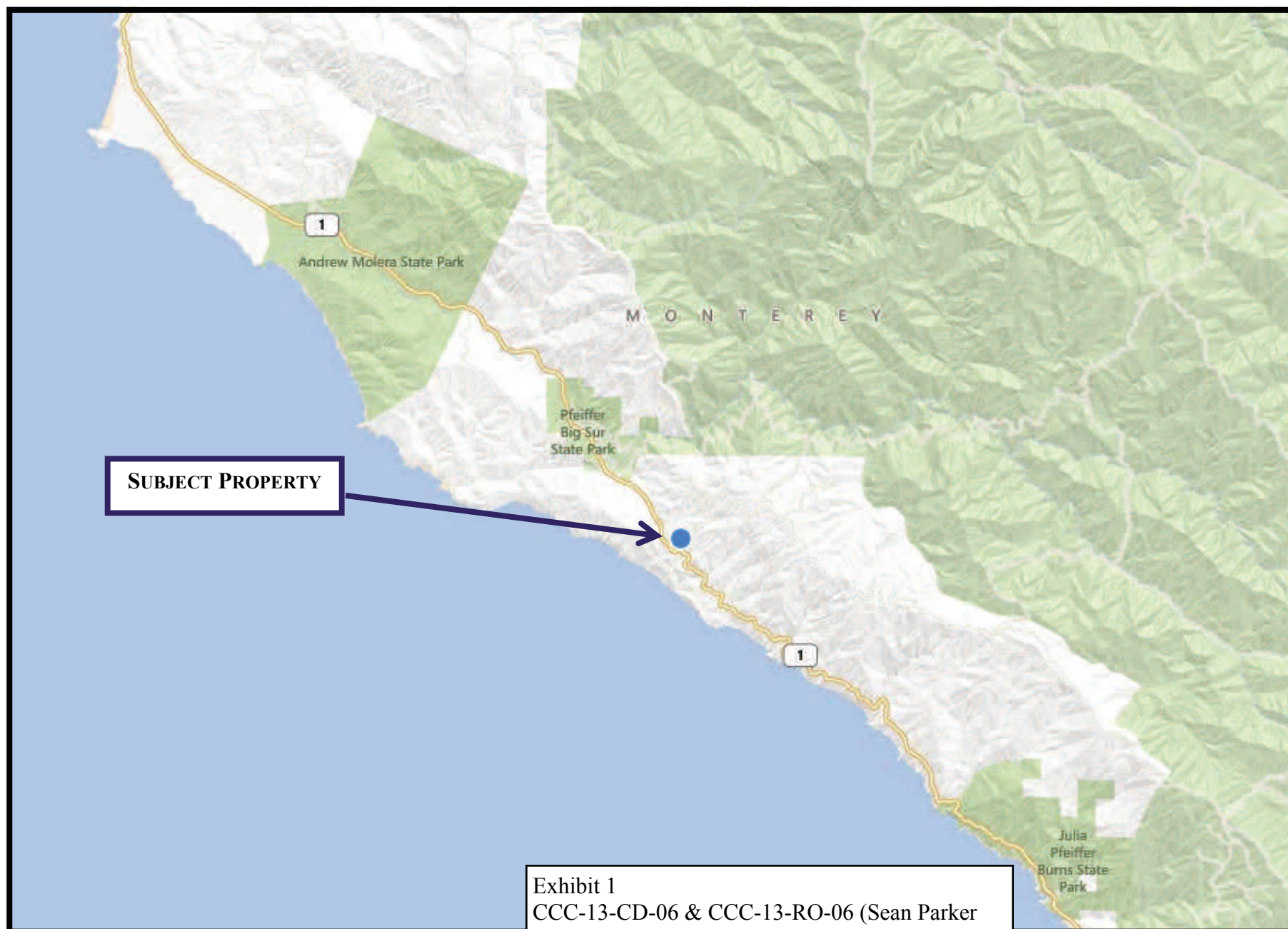
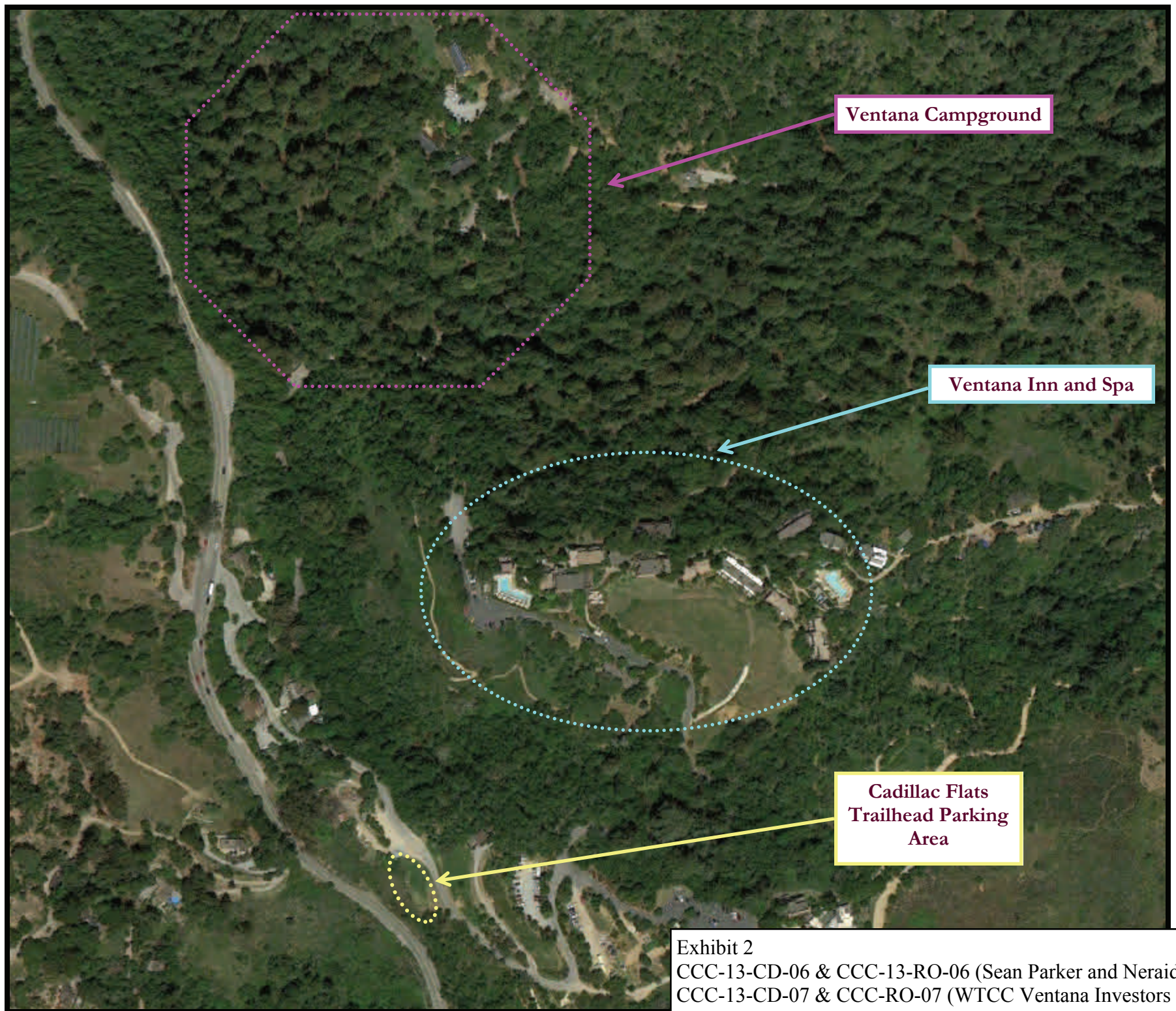


Exhibit 1
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker
and Neraida LLC); CCC-13-CD-07 & CCC-RO-07
(WTCC Ventana Investors V, LLC)
Page 1 of 1



CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT
701 OCEAN STREET, ROOM 310
SANTA CRUZ, CA 95060
(408) 426-7390 ATSS: 8-529-2304

FILED: 7/7/82
49th DAY: 8/25/82 (time waived)
180th DAY: 1/5/82
STAFF REPORT: 9/20/82
HEARING DATE: 10/13/82
STAFF: Joy Chase/ja/lt/cw

REGULAR CALENDAR

PROJECT DESCRIPTION

APPLICANT: Ventana Inn, Inc.

PERMIT NO: 3-82-171

PROJECT LOCATION: Approximately 3½ miles south of Big Sur Village,
Big Sur area of Monterey County.

PROJECT DESCRIPTION: Construct 19 inn units, swimming pool, bath house,
restaurant, kitchen addition, picnic area, 15 employee housing units,
recreation building, ancilliary trail, parking, and septic systems; remodel
Post Homestead into store and staff apartment; convert 15 campsites to tent
cabins; pave portion of Coast Ridge Road.

LOT AREA: +170 acres

ZONING: Scenic Conservation, 1 unit/acre

BLDG. COVERAGE: New: 20,500 sq. ft.

PLAN DESIGNATION: Rural Community Center;
Watershed and Scenic Conservation

PAVEMENT COVERAGE: New: 31,000
sq. ft.

PROJECT DENSITY: 1 unit/.91 acres (59 Inn,
34 staff, 92 campsites); 1 SFD

LANDSCAPE COVERAGE: New: 3,000
sq. ft.

HEIGHT ABV. FIN. GRADE: Varies

LOCAL APPROVALS RECEIVED: Use Permit #2605 (1/11/78) - amendment (11/6/81);
Use Permit #ZA-4896 (4/16/82); Use Permit #2869 (5/21/81).

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit files P-78-396, Appeal 445-78 and
amendments; P-80-125; Appeal 180-80; 3-82-36. EIR, Sept. 1977;

McCarty Springs EIR, July 1979; Water Management Plan, July 1980;

Post Creek Watershed Study, March 1982; Monterey County Big Sur Land
Use Plan as approved by the Commission, September 1981.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);
CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

0 02 171 VENTANA INN, INC. Page 6

RECOMMENDATION

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

SUGGESTED CONDITIONS

Approved Development

1.a. A Coastal Development permit is hereby granted for the restaurant kitchen expansion improvements.

1.b. This portion of the coastal development permit authorizes the construction of 19 inn units, 15 staff units, picnic area improvements and all related or required improvements pursuant to the following conditions, except that the staff recreational building is not permitted at this time.

1.c. Any future development on any of Ventana's parcels including new tent cabins, or closure of any facilities shall require an amendment request.

Construction Schedules

2. PRIOR TO ISSUANCE of permit, permittee shall submit to the Executive Director for review and approval a construction schedule and operation plan for all aspects of the development. The scheduling shall provide that:

a. No site grading 100 cubic yards or more, shall take place between November 15 and April 15. The contractor shall submit interim stabilization measures to minimize erosion during the construction period in all areas of disturbance.

b. Employee housing shall be constructed prior to or concurrent with the inn units but in any event shall be available for occupancy prior to occupancy of the inn units.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Lower Cost Recreational Facilities and Trails

3. Within 180 days of the effective date of this permit, permittee shall provide a timetable for processing and within one year of the effective date of the permit shall have completed construction of 19 campsites or their equivalent.

This lower cost facility shall have received all necessary approvals and shall be consistent with the requirements of the Big Sur Coast Land Use Plan and shall be located in the Big Sur Valley area. Plans, including location, waste disposal, management responsibility, and construction timing, shall be submitted for Executive Director review and approval. The Executive Director may determine that a separate coastal permit is required for the facility if located off-site. However, no separate permit will be required if the facility constitutes a walk-in campground located on the 72 acre parcel.

4. Prior to occupancy of the approved inn units, the permittee shall provide:

a. Plans for the picnic area showing sanitation facilities including water and restrooms (may be chemical toilets). The plan shall be accompanied by Monterey County Planning and Health Department approval and an installation schedule.

b. Plans for eight campsites to replace those lost to employee housing (may be added to the 19 lower-cost units, condition #3 above).

5. PRIOR TO ISSUANCE of permit, the Executive Director shall certify in writing that the following condition has been satisfied. The permittee shall execute and record a document or documents in a form and content approved by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, the following easements for public access and recreation:

a. A coastal lateral access pedestrian and equestrian easement the length of the permittee's properties from the northern property boundary to the southern property boundary. Except for minor modifications to avoid existing or permitted structures, such easement shall be 25 ft. minimum in width and shall be designed to connect Pfeiffer-Big Sur State Park to the proposed Ventana picnic area and Coast Ridge Road in a manner which avoids exposure of pedestrians to traffic on State Highway Route 1. Wherever physically feasible, the easement shall also be designed to allow trail location on a separate alignment where parallel to the Ventana campground/restaurant entrance road(s), and to allow connection with future coastal lateral access easement, if any, which may be located on lands adjacent to the southern-most boundary of permittee's southernmost parcel.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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b. A pedestrian and equestrian easement on Coast Ridge Road at all locations where such road is located in whole or in part within the permittee's parcels. In lieu of executing a new easement, permittee may submit any existing U.S. Forest Service easement or easements prepared to satisfy County of Monterey permit conditions, provided that the Executive Director determines that such submittal carries out the intent to provide public access in an equivalently effective manner. The location of these easements shall be consistent with the approved LUP and the Commission's/Conservancy "Standards and Recommendations for Coastal Access".

Such easements shall be free of prior liens or encumbrances except for tax liens. While the easements may be subject to reasonable conditions to provide for the operation and maintenance of a pedestrian/equestrian trail, the easement shall provide that no signs or barriers shall be erected or retained which would cause the visitor to believe the trail(s) to be closed to public use (an exception for extreme fire danger or other officially declared emergency should be indicated).

The offer shall run with the land in favor of the people of the State of California binding successors and assigns of the permittee and future landowners. The offer of dedication shall be irrevocable for a period of 25 years, such period running from the date of recording.

Water Resources

6. PRIOR TO ISSUANCE of permit, permittee shall submit to the Executive Director for review and approval a comprehensive Project Water Monitoring and Management Plan which includes the following:

a. Data Collection Program

(1) Stream flows in Post Creek shall be monitored on a regular basis throughout the year at several locations in the Watershed in order to begin building a sound data base on water availability and current diversion. This will be accomplished through use of temporary or permanent weirs placed in the streambed at various locations established by a qualified hydrologist, State Department of Fish and Game and the Commission. But at a minimum, one weir shall be installed above the log jam at the north property line of permittee's northern parcel, hereafter called Station 1. Weirs shall be in place as early as possible in compliance with Department of Fish and Game authorizations. Stream flows shall be monitored and recorded on a regularly scheduled basis agreed upon by the permittee, the hydrologist, Department of Fish and Game, and the Commission.

(2) Water consumption by major use categories, i.e., campgrounds, employee housing, etc., shall be metered. Water use readings shall be recorded at the minimum, at the same time as the stream flow measurements.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

(3) Water supply facilities shall be metered to provide quantitative data on individual sources, i.e. Post Creek, Campground Spring, Well, Redwood Springs, and data shall be recorded, at the minimum, at the same time as the stream flow measurements.

b. Conservation Plan for Resource Protection

(1) When Post Creek stream flow drops to 112 gpm as measured at Station 1, permittee shall commence and incrementally effect additional water conservation measures which shall correlate water use with stream flow so that before surface flow at Station 1 is reduced to 60 gpm, all diversions under permittee's control (excepting obligatory supply to off-site residential structures) shall cease and permittee will rely solely on groundwater source (i.e. restaurant well). The water conservation measures and correlated reduction in use shall be submitted as part of this plan.

(2) All plumbing fixtures, new and old, for the full site shall be fitted with water conservation fixtures which restrict flow of water. Permittee shall submit an inventory of units and identify compliance features. In addition, for campground facilities, all showers and faucets shall be equipped with automatic shut-off devices to minimize waste from faucets being left on.

c. Fishery Resource Enhancement Program

Within one year of the effective date of this permit, and in accordance with the development plan submitted, permittee shall construct, maintain, and operate pipeline and pump from the Big Sur River to protect the steel-head spawning area of Post Creek in accordance with the recommendations of the Department of Fish and Game and in accord with any requirements of the California Department of Parks and Recreation. Unless otherwise designated by the Department of Fish and Game, system capacity shall be adequate to provide a sustained flow of at least 60 gallons per minute over the spawning bed. Permittee shall expeditiously pursue the processing of necessary permits and authorizations from these agencies and shall regularly apprise the Commission of their progress.

d. Permittee shall record a deed restriction agreeing to permanently follow this monitoring and management plan.

e. Post Creek Watershed Management Plan

Permittee shall record a deed restriction agreeing to cooperate and participate in the Post Creek Watershed Management Plan formation and implementation as finally developed under the Local Coastal Program.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Page 5 of 39

Scenic Resources

7. PRIOR TO ISSUANCE OF PERMIT, permittee shall submit a proposal for modification of the existing scenic/open space easement as may be necessary for the protection of scenic resources on the permittee's property, to provide for the protection of the viewshed as seen from State Highway Route 1. Such modified easement shall be free of prior liens or encumbrances, except for tax liens. Permittee shall submit for Executive Director, Attorney General, and Grantee review and approval, the terms, conditions and consent of grantee for the modified easement, prior to recording. The modified easement shall be recorded with the County Recorder prior to occupancy of the inn units.

The modified easement shall include provisions to prohibit grading and other development; to prevent disturbance of native trees, groundcover and wildlife; to prevent damage by excess concentrations of livestock; and to provide for maintenance needs. Exceptions may be included for any development sites hidden by natural land forms or native vegetation; for further improvements along the Highway 1 frontage from Post Homestead through the old entrance road location; and for any developments constructed pursuant to this or prior coastal development permits.

An alternative approach (such as recordation of deed restrictions or covenants) insuring with equivalent effectiveness the protection of the public interest in maintaining undamaged scenic vistas as seen from State Highway Route 1, may be accepted in lieu of a scenic easement, subject to prior review and approval by the Executive Director.

8. Within 180 days of permit issuance, permittee shall submit for Executive Director review and approval landscaping plans emphasizing natural and drought resistant species and showing maximum feasible screening for those improvements potentially visible from State Highway Route 1 (parking lot, crib wall). Permittee shall not install new exterior lighting in any location where the light source is directly visible from State Highway Route 1.

9. Prior to surfacing of lower Coast Ridge Road, permittee shall submit for review by the Executive Director an evaluation of alternative techniques for effectively stabilizing the road surface. Emphasis shall be placed on methods which would harmonize with the rural character of the area. Final selection of surfacing method and materials shall be subject to approval by the Executive Director. Safety signing shall also be provided subject to Executive Director review and approval.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Other Requirements and Agency Approvals

10. PRIOR TO ISSUANCE of permit, permittee shall submit for review and approval of the Executive Director:

a. Evidence that the Regional Water Quality Control Board has approved the wastewater disposal system as presented to the Commission. Any RWQCB recommendations that alter the current system proposal shall be submitted for the review and approval of the Executive Director.

b. Evidence that the Monterey County fire safety requirements for the inn units shall be applied to the staff housing units as well.

c. A revised soils engineering report indicating structural and geologic stability for revised development locations of the new inn units and surrounding area. Permittee shall submit verification that Monterey County Building Department approves the revised locations.

d. Signing program including all elements of the development. The signing shall be in keeping with the rural character of the area.

e. A deed restriction providing that the employee housing units, may not be converted to other uses and may be occupied by employees of Ventana Inn, Inc., and their families, only. Subsequently the permittee shall record said document.

FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

BACKGROUND
INFORMATION

1. This project has extensive history before the State and Regional Commissions. Sixteen out of a requested 36 units have previously been approved by the Commission; an additional 19 are now being requested. In 1978 the applicant applied for a 36-unit expansion (P-78-396) to the existing 24-unit Inn. The Regional Commission denied the permit and the applicant appealed to the State Commission, which found a substantial issue raised by the appeal (Appeal 445-68, February 1979). The State Commission staff recommended approval of the entire 36-unit expansion, with conditions requiring, among other things, conversion of 30 existing camp sites to tent cabins; provision of a 40-bed, low-cost hostel, 30 units of employee housing, and additional parking; submittal of a Water Resource Management Plan using McCarty Springs as a backup water source, protecting the natural vegetation below the spring, and providing water conservation features; and submittal of a transit plan providing visitors with a regularly scheduled bus shuttle service to and from points on the Monterey Peninsula and points of attraction on the Big Sur Coast. However, the State Commission limited its approval of the expansion to only an additional 16 units, finding that further expansion could not be found consistent with the Coastal Act prior to a comprehensive and equitable allocation of the area's limited traffic capacity through the Local Coastal Program process. The conditions imposed limited improvements to serve only the 16 additional units and required the previously mentioned Water Resources Management Plan; these conditions have been fulfilled by the applicant. That permit also authorized construction of parking lot improvements, two staff housing units, golf cart storage, gatehouse, campground improvements and expansions to the bath house and office-lobby area. The applicant later received approval by the State Commission of an amendment to allow relocation of 3 rental units, remodeling of the office-lobby, and construction of a separate Inn-Reception building.

In 1980 the applicant reapplied to the Regional Commission for the subject permit for 20 additional units. The Regional Commission staff recommended denial of the permit.

When directed by the Regional Commission to submit a recommendation for approval with conditions, the Regional Commission staff drafted findings for approval with conditions requiring, among other things, additional water management provisions, provision of 36 units of employee housing, grading and landscaping plans, and compliance with County-imposed conditions. During the Regional Commission deliberations, the applicant offered to purchase the nearby 72 acre parcel, to be used to provide employee housing, and to lower the overall density of the project. The Regional Commission approved the project with conditions drafted by its staff with one change: the requirement for 36 units of employee housing was deleted and replaced with a requirement that the applicant purchase the 72 acre parcel and record a deed restriction prohibiting development on the parcel prior to certification of the LCP.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Véntana Investors V, LLC)

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The approval was appealed to the State Commission by the Sierra Club. The State Commission found that the major issues of limited water supplies and traffic constraints had not been resolved and the permit was denied.

As an amendment (A-445-78, June 1981) to the original permit, the Executive Director of the State Commission approved a left turn channelization and a consolidation of the campground and Inn entrance roads, plus three 15,000 gallon water storage tanks. In March 1982 the Commission approved the demolition of the gas station, delicatessen, and a storage building on Highway 1 frontage, providing area for the previously approved entrance roadway system. These roadway improvements are now underway. The applicant's well was redrilled according to the water management plan required by the Commission in A-445-78.

PROPOSED
PROJECT

2. The proposed project is to construct 19 additional inn units, 15 units of staff housing, and a number of related improvements. A breakdown of existing and proposed development follows: (See Exhibits 1 & 2, attached.)

EXISTING

PROPOSED

INN
COMPLEX

40 inn units - office/lobby
swimming pool/terrace
bathhouse/hot tub
30 parking spaces

19 inn units (4 buildings)
2 units (640 sq. ft. each)
9 units (5-575 sq. ft., 4-720 sq. ft.)
6 units (4-540 sq. ft., 2-620 sq. ft.)
2 units (1-family unit 900 sq. ft.,
1-480 sq. ft.)
swimming pool/terrace 6144 sq. ft.
bathhouse/hot tub building, 1500 sq. ft.
30 parking spaces
trail to restaurant area from inn
(5 ft. wide, decomposed granite
and wood bridge, low voltage path
lights).

Total Inn Units 59

RESTAURANT
COMPLEX

103 seat restaurant
retail shop/office
133 parking spaces

kitchen area addition (sq. ft.)
generator housing

STAFF
HOUSING

Occupancy
Range

Occupancy
Range

3 apartment structures
(14 units)

32

9 individual efficiency units
(480 sq. ft. each)

9-18

1 house (2 bedroom)

2-4

3 duplexes = 6 units (746
sq. ft. each)

12

1 managers's unit under
construction (2 bdrm)

1-4

1 SFD remodel (Post Homestead)
recreation bldg. w/laundry

3

1 cabin interior remodel

2-4

1 cabin interior remodel

1-2

Total Range 62-79

Total Staff Units 34

NOTE: 21 campsites are currently
being used by employees

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC
Ventana Investors V, LLC)

| | <u>Existing</u> | <u>Proposed</u> |
|--|---|--|
| CAMPGROUND | 101 campsites, 85 improved (tables, storage, some electrical outlets); 16 not fully improved; (21 spaces, fully improved, are used by employees in tents, trailers, campers.) 2 bath/wash houses, each have 1 washer, 1 dryer 1 entrance booth | 15 sites will be converted to cabin tents 8 sites will be developed with employee housing units |
| | Note: Employees camping in campground will be moved to new housing units. | |
| ROADWORK | Under construction: consolidate campground/inn access roads from Highway 1 and add left turn lane on Highway 1; landscape along Highway 1. | Pave Old Coast Road approximately 1000 ft. |
| POST HOMESTEAD | Empty SFD. | Remodel/restore to provide (staff housing for 3 employees and) a convenience store; sundeck; 15 parking spaces |
| EXISTING WATER SYSTEM | Well (newly improved, 25 gpm); 6-point intake from Post Creek, Redwood and Camp Springs intakes; McCarty Springs under construction. Storage tanks: 4-15,000 gallon, 1-12,000 gallon, 1-8,000 gallon. | |
| DISPOSAL SYSTEM | Septic system for all existing development. | Septic system for new inn units. Septic system for new staff housing. |
| MISCEL- LANEOUS | 1 SFD | Public picnic area with 21 parking spaces. |
| DEVELOPMENT PATTERNS AND DENSITY | <p>3. Section 30250 of the Coastal Act states in part:</p> <p>(a) New residential, commercial, or industrial development, except where otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.</p> <p>(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located on existing isolated developments or at selected points of attraction for visitors.</p> | |

Also, Sections 30222 and 30223 of the Coastal Act provide:

30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over development, but not over agriculture or coastal-dependent industry.

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);

CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The proposed development is located in the vicinity of Big Sur Village, east of Highway 1, near the intersection of the Highway and Coast Ridge Road (Exhibit 1a.)

The site is already extensively developed as the chart in the above finding indicates. Past Commission hearings have raised concern about ultimate site and area densities.

Land Use Plan

The Land Use Plan as modified and approved by the Commission on September 3, 1981, provided this land use formula:

Inns: The criteria for development of visitor inn accommodations allowed in the Watershed and Scenic Conservation (WSC) and the Rural Community Center (RCC) area is (1) site suitability, (2) one-acre minimum site with a 60 unit maximum site cluster, and (3) a maximum of 500 new inn units for all of Big Sur. These units are in addition to the 800 residential units. Additionally, visitor-serving development of five or more units must be located in an existing node of development or in a State Park or at least one mile from any other concentrated visitor-serving facility, i.e., 5 plus inn units, any retail or food service. The modified plan also permits screening of concentrated visitor serving development in the Highway 1 viewshed.

Campgrounds: The plan provides that campgrounds in WSC are allowed at a density of 1 unit per 20 acres, clustered at 5 sites per acre and in the RCC, 1 unit per acre with a minimum 10 acre parcel and a maximum of 10 sites per acre. Tent platform cabins and RV campsites are to be allowed in developed parks when feasible or in undeveloped parks, and could also be allowed in the RCC's. Cabin tents were identified as a moderate intensity recreational use comparable to RV's; no designation of cabin tents per acre in the RCC zone was made.

Food Service: Restaurants are specifically allowed in Recreational and Visitor Serving Commercial areas. Dining facilities for inn guests only are permitted in the WSC designation. No site density standards were applied.

Employee Housing: Employee housing is conditionally permitted in WSC, Rural Residential, Outdoor Recreation, and Rural Community Center. No site density standards were applied.

The LUP provides that "New development or expansion of existing recreation and visitor serving facilities in the Big Sur Valley...is generally acceptable provided resource protection policies can be met" (5.4.3.c.5) and that "Visitor serving facilities may be approved on any size parcel. However the parcel shall be large enough to allow for the construction of needed employee housing, provide adequate sewage disposal and parking, and otherwise satisfy the policies of the plan" (5.4.3.c.7).

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

The LUP also requires:

5.4.3.C.9 Applicants for commercial developments shall submit a profile of the number of expected employees. The profile shall indicate, in general ranges, the income of the prospective employees and other information that would allow for an assessment of the employee housing needs to be created by the development. An employee housing plan shall be submitted that indicates how the employer shall, as part of the development or satisfy all, or a substantial portion of, the housing needs of the employees.

5.4.3.I.2.C. Require that as a condition of all permits related to additions to existing public or private visitor facilities or the construction of new facilities that employee housing be constructed on-site, or in the immediate vicinity, and be made available to low and moderate income employees in accordance with Policy C-9 of this section.

LUP modifications provide that a "substantial portion" means at least 50% and that units so provided be available and affordable to low and moderate income employees over the long term. The LUP modifications also state: "Add binding guarantees that employee housing will be permanently linked to the visitor-serving use (this is particularly necessary if housing is built off-site and to prevent later subdivision from the visitor-serving use); Clarify that housing must be provided prior to or concurrent with the proposed development."

Analysis

Three factors are relevant in considering whether the proposed project is consistent with the above cited Coastal Act and Land Use Plan policies - location, density, and employee housing.

The Commission has previously found that Ventana's location in the vicinity of Big Sur Village makes it appropriate for new development consistent with Section 30250 of the Coastal Act. The Coastal Act's criteria for appropriate density is the ability of the area to accommodate development. The Commission has consistently taken into account all potential site development, including for example, impacts from employee housing. The following findings discuss water, waste water and highway capacity. The Water Supply finding indicates that there is sufficient water to serve the proposed development as conditioned; however, there may not be enough water to serve similar developments in the Post Creek watershed. One potential site for such development is the 72 acre parcel north of the inn that Ventana recently purchased. In order to make the no-adverse-cumulative-effect-finding required by Section 30250a, it must be assumed that there will be no other additional development on any of Ventana's property (except that provided for by this permit) without proof of further water availability.

The Big Sur Land Use Plan will set ultimate densities for each property consistent with the Coastal Act. The previous page delineates permitted densities in the submitted plan as modified by the Commission.

The Land Use Plan maps show the Ventana site partially in Rural Community Center (RCC) and partially in Watershed and Scenic Conservation (WSC) (approximately 80 acres (see Exhibit 3)). The LUP was modified to map "Rural Community" areas on Land Use Map #1 at a scale that permits easy identification of area boundaries and individual parcels. While County planning staff has performed such mapping at an improved scale, the maps have not yet been submitted for Coastal Commission approval. Therefore, the acreages in each land use designation mentioned in these findings are estimates only. Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);

CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

In the estimated 90 acre WSC existing development includes: 50 campsites, 6 inn units, 1 employee SFD, and 1 SFD. Proposed development is 17 inn units/pool and conversion of 6 campsites to tent cabins. By LUP standards this area is already developed beyond capacity, since only 1 campsite per 20 acres would now be permitted, and the existing ratio is 1.8 campsites per one acre, or 45 campsites beyond LUP allowances.

In the estimated 80 acres of RCC there are now 51 campsites, 17 employee units, 34 inn units and a 103 seat restaurant facility as well as other amenities. Proposed are 10 employee units (delete 8 campsites), 2 inn units, conversion of 9 campsites to tent cabins. The result is 43 campsites, 33 employee units, 34 inn units, and a restaurant. Under LUP standards one campsite per acre is permitted. Site density standards for inns and restaurants are a one-acre minimum and a 60 unit maximum. No density standards are specified for employee housing which generates development impacts (wastewater, water, etc.) at least as great as that of campsites.

The LUP does permit unlimited employee housing apparently for two related reasons. First, in favoring new visitor-serving facilities, it recognizes the need to house the new workers, and there is currently little available lower cost housing in Big Sur. Second, where employees live on-site, two potential daily trips on Highway 1 per residence (i.e., to and from work) are eliminated. To the extent that employees can use on-site facilities (e.g., store, laundry, proposed new recreation room), further potential Highway 1 use is reduced. Implicit in the LUP provision is the assumption that employee housing will generate few Highway 1 trips and that these can be considered priority uses. Therefore, it is necessary under Section 30254 to ensure that employee housing will remain just that as LUP policy 5.4.3.I.2.c, as modified, requires.

Regarding employee housing, Ventana has submitted a staffing profile showing 96 to 109 employees. Six to eight new employees are required for the 19 new inn units, balancing the employees recently lost due to deli and gas station closure. Currently 37 employees are permanently housed in on-site buildings, and others live in the campground (see finding #6). This application will result in 62 to 71 employees permanently housed on site, a percentage which exceeds but will not conflict with the 50% threshold recommended in the LUP.

In conclusion, the proposed project appears inconsistent with the Land Use Plan densities regarding campsites. The land use plan is silent on two relevant characteristics of this project - determining overall densities for parcels (1) that span two land use designations and (2) that are over-developed for some uses (ie. in this case campgrounds) but within the density range for other uses also allowed (ie. in this case inn units). However, the modified land use plan is clear that a development must provide for all appropriate facilities (ie., parking, employee housing, low cost recreation) and that there be adequate land and services to accommodate a total project. Again if the 72 acre parcel were factored in, consistency with the land use plan densities could be achieved provided transferring credits were allowed. This is because if it is assumed that approximately 42 acres will be in RCC (which would allow 42 campsites) and 30 acres in WSC (which would allow 1 campsite), 43 campsite credits would result.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Since land use plan preparation is incomplete, existing County zoning remains in effect. That zoning of 1 unit (of any type - inn, house, campsite) per acre was conditioned by the County Use Permit to be increased to 1 unit per .87 acre to accommodate the expansion to 60 inn units. This rezoning has not yet occurred. It appears that a further rezoning would also be necessary to accommodate the replacement campsites if located on Ventana's existing developed property.

In summary, the proposed project's location and provision for employee housing are consistent with the Coastal Act (and existing County zoning and general plan). The exact location of facilities appears inconsistent with the Land Use Plan Map, but LUP modifications are expected to result in a more precise Map which reflects actual use. Most importantly, the overall density can be considered consistent with Coastal Act Section 30250a (and existing zoning) as discussed in the following resource findings only if the entire +242 acre holdings of Ventana are considered as conditioned. Given the current state of the land use plan (differences remain between the Commission and County, with a resubmittal expected) and its lack of clarity concerning overall site densities, a determination of total consistency with it is not necessary to approve this project. The project, as conditioned, does appear consistent with the emerging direction of the land use plan to allow further recreational development in the Big Sur Village area, generally at the proposed density.

4. Coastal Act Policies

Under Section 30250 of the Coastal Act new development must be located where there are adequate public services and where it will not have significant adverse effects, either individually or cumulatively on coastal resources. Section 30231 specifically addresses water resources:

"The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects or waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing the alteration of natural streams." (Underlining added.)

Section 30240 protects environmentally sensitive habitats from significant disruption of habitat values and requires siting and designing of development to prevent impacts and provide compatibility with the continuance of such habitat areas. Streams and riparian habitats are considered environmentally sensitive habitats by the Commission and according to the Big Sur Land Use Plan.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);
CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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WATER
RESOURCES

Habitat Values in the Post Creek Watershed

The Ventana Inn parcels are located in the Post Creek Watershed, a tributary watershed to the Big Sur River. Post Creek has a small watershed with an area of 870 acres, 1.36 sq. mi. The creek is approximately 1 and 1/2 miles in length, dropping from an elevation of 1500 feet at its headwater springs to 280 feet at its confluence with the Big Sur River. The upper reaches are often characterized by a narrow creek channel with a heavy redwood forest canopy and limited riparian vegetation.

Surface flow volumes vary significantly along the length of the stream according to the immediate creek channel geology as well as in response to seasonal and daily variations in runoff. Approximately 900 feet from its confluence with the Big Sur River, Post Creek is blocked by a log jam. Below the jam the stream gravels provide a spawning habitat for steelhead trout. (See Steelhead Habitat, Exhibit 4).

Steelhead are an anadromous fish, hatching and spending their juvenile life in the stream, maturing in the ocean and then returning to the stream to spawn. They generally spawn all winter with peak activity in January and February. They move upstream, mating and laying their eggs in areas of loose gravel. Two or three months after spawning the young fish emerge from the gravel. Juveniles generally remain in the stream for a year, migrating to the ocean in March and April. Only about 10 percent of the juveniles survive to migrate to the ocean. After 2 years, the fish return. Of every four thousand eggs hatched, one steelhead survives to maturity and returns to spawn.

Post Creek and the Big Sur River itself provide the only significant steelhead habitat in the Big Sur watershed. A barrier at mile 7 in the Big Sur River leaves a limited spawning and nursery area. This barrier is being modified to improve upstream access for the steelhead. Three other perennial streams enter the Big Sur below the barrier; two of these are inaccessible to steelhead and one offers very limited access. Because of this, Post Creek is important in maintaining a natural steelhead fishery in the Big Sur watershed. Additionally, the riparian corridor of Post Creek includes redwood trees, associated shrubs and trees, wildlife and stream life. No rare or endangered species have been reported.

The seasonal variations in streamflow have a very important impact on the stream biota. High flows in winter provide for the flushing of accumulated fine sediment, increase stream suitability for shelter, spawning, and the growth of stream invertebrates. Sufficient baseflows between storms are necessary for the migration and spawning of the anadromous fishes. Flows in summer are very critical to the stream ecosystem. In the summer, streams shrink in size, temperatures go up, concentrations of chemical substances increase, and growth of algae may become excessive. High baseflows moderate these conditions and allow the stream to support a more diverse and productive ecosystem. The amount of living space and productivity is related directly to the amount of flow.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Water Resources and Natural Requirements in the Post Creek Watershed

The "Draft Protected Waterway Management Plan" for Big Sur River prepared for the Department of Fish and Game by John Stanley, Consultant to Monterey County Planning Department, identified the following concerns in water resources of the Big Sur watershed:

"(1) The active and approved water diversions in the ... Post Creek tributaries probably represent a near total commitment of all available water within the driest part of the year. (2) During the recent drought only 12.1 gpm (.027 cfs) flowed into the Big Sur River from Post Creek. These conditions were recorded in the late summer of 1976 (California Coastal Commission, 1977 and Black and Veatch, 1980). (3) There are eight separate points of diversion in the upper Post Creek drainage which are or have been relied on to meet the water needs of 700 people. Only the Coastlands Mutual Water Company has obtained a license to appropriate water from Post Creek. This watershed has a history of water supply problems."

The Plan reported that estimated yearly runoff from the entire Big Sur River watershed (both upper and lower basins) is 64,900 acre feet (Vita, 1980). The vast majority of this runoff occurs between November and May. Being that there is no means of storing any significant amount of this runoff, water resources development is limited by available water flow in the dry summer months when the base flow in the Big Sur River averages 8,785 gpm. More significant are the average flows for peak demand months such as August in which the average stream flow is 6,690 gpm. Since all water systems must be designed with the drought year flows in mind, the lowest flow measured in 1976 of 2,510 gpm should be recognized as a probable limiting factor on potential water development.

The 1976-77 drought severely reduced surface flows in Post Creek. The effects on habitat resources were disputed. Consulting ecologist Richard Robinson (10/79) stated that the vegetation habitat was not significantly affected. Certified ground water consultant John Logan (8/78) stated that water demand in the watershed could exceed supply, and diversions of creek flow would result in important reduction in the flow of lower Post Creek and perhaps even to complete drying thereof with its subsequent impacts on resources. The State Department of Fish and Game (DFG) recommended at that time no further diversions until the instream flow requirements of the anadromous fisheries resource could be determined. Currently, the Department has recommended (see attached Exhibit 5) that a minimum of 60 gallons per minute flow throughout the 900' reach where fish exist during the later summer low flow conditions. This would be a maintenance flow necessary to protect fish until the rainy season. Much higher volumes of water would be required throughout the rest of the year to provide adequate spawning, incubation and rearing flows. February discharge volumes in normal rainfall years are 11 times the summer flow for Big Sur Creek.

It is generally agreed that if year round flow is adequate to support the anadromous fish, the stream ecosystem including riparian vegetation will be protected.

Land Use Plan Policies

The Commission has conditionally approved a Land Use Plan for the Big Sur area of Monterey County. The County has not accepted the conditions and is in the process of proposing modifications to the plan. The Coastal Act remains the legal standard of review for permits where there is an uncertified Land Use Plan. However, the Commission must consider the potential impact of a proposed activity upon the ability of the local government to achieve a local coastal program consistent with the Coastal Act and thus will consider the project as it relates to the Land Use Plan as approved CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and

Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

The Local Coastal Program Land Use Plan for Big Sur identifies the protection of stream flows and water quality as a basic prerequisite to the protection of all other natural systems. Adequate water must be "retained in the stream system to provide for the maintenance of the natural community of fish, wildlife, and vegetation during the driest expected year." (3.4.1 Key Policy). To achieve this, comprehensive water management would be necessary to assure sufficient water for competing uses with sufficient reservation to protect habitat.

The LUP provides specific policies for water supply development:

(a) The use of spring or surface diversions as preferred water sources. Wells should be located adjacent to streams and should be avoided at higher elevations. Groundwater storage basins located in the upper portions of watersheds provide water for spring and stream flows; minimum stream flows are to be protected from overdevelopment of wells which tap these underground stream reserves (3.4.3.3 condition). Groundwater and recharge areas are to be identified and mapped to preclude development of wells in these areas (3.4.3.4 condition).

(b) Water is not to be transferred out of a watershed or between tributaries of the same watershed.

(c) Special efforts shall be made to protect water quality, adequate year round flows, and stream bed gravel conditions in streams supporting rainbow and steelhead trout (such as Post Creek).

(d) In most cases no intensification of water use in "Watershed Restoration Areas" is allowed. In water restoration areas, water supply has been diminished to the point that wildlife and vegetation may be adversely affected and intensification of water use (except for on-site spring use) would not be permitted without (1) demonstrated environmental acceptability of cumulative impacts of water use intensification on the watershed or (2) restoration measures completed to enhance water supply for the watershed as a whole.

(e) Policy condition 3.4.3.2 specifically addresses Post Creek. "Add Post Creek and Palo Colorado Creek to the list of watershed restoration areas, or provide a water management plan which evaluates the resources of the streams and establishes that level of water withdrawal which could occur consistent with the basic requirements of protection and enhancement of the stream's natural resources. The water management plan shall be binding on both existing and potential water users. Additional criteria for the water management plan shall be established in the implementation phase of the LUP. If a water management plan is prepared prior to implementation, it shall be subject to Coastal Commission review. The California Department of Fish and Game will be requested to evaluate the adequacy of each water management plan submitted." (Emphasis added by staff.)

(f) Environmentally sensitive habitat policy 3 3.3.A.3 (in part):
In order to protect riparian habitats, land use development activities will not be permitted that will have the effect of diminishing surface flows in coastal streams to levels that will result in loss of plant or wildlife habitat.

The preceding policies may serve as a guide to reviewing the applicant's proposed water use and management plan. Variation from the policies may occur if full compliance with the Coastal Act is still achieved.

Post Creek Watershed Water Users

The Post Creek watershed has an area of 870 acres. Highway 1 crosses this watershed and strips of land along each side of the highway are designated Rural Community Center in the Big Sur Land Use Plan which could allow relatively intensive development when sites are suitable. As is common throughout Big Sur, slopes are steep and often unbuildable. There are 14 separate property ownerships within the watershed; three of these do not use water from the watershed (State Parks, CalTrans, Ramistella). The Coastlands subdivision (43 lots) is not in the Post Creek watershed but exports water from Post Creek (28 existing connections) and obtains water from Mule Creek as well for additional connections. Post Creek itself flows through the Ventana property, CalTrans property, and through part of Pfeiffer Big Sur State Park where it meets the Big Sur River. (See Exhibit 3, Watershed Map).

HISTORIC POST CREEK WATERSHED INVESTIGATIONS: Attached as Exhibit 8 are staff comments on the "Big Sur Coast Subregional Analysis" and the "Preliminary Plan and Policies for the Protection of the Big Sur Coast Water Resources".

A Study of Future Water Use and Availability by Jack Mahoney, Civil Engineer, September 1979 (and subsequent follow-up reports) were Post Creek watershed investigations prepared for Ventana Inn. Because of uncertainty of water supply and highway capacity, the Commission limited approval of the Ventana Inn expansion application to 16 of the 36 units and required the applicant to prepare a water resources management plan as a condition of approval; the purposes of the plan included analysis of present and future supply and demand for water, the development of McCarty springs as backup water source during drought periods, and specific water conservation measures. At that time water was available to the Inn from Post Creek, Redwood Springs and an on-site well.

Using data from the Subregional Analysis, the study reported drought demand within the watershed at 35,400 gpd, unused flow at 17,424, and total drought supply at 52,824 gpd. From this it was extrapolated that in a normal rainfall year the water supply would be 136,200 gpd ($53,000 \times 2.57$). Full buildout including Coastlands would demand 100,000 gpd. Hence, 36,200 gpd or 25 gpm would remain as streamflow.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);
CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Additionally, drought period flow from McCarty Springs was measured at 17,280 gpd (12 gpm); when developed, half that flow would be returned to Post Creek. Thus the Post Creek drought flow 17,424 gpd plus 1/2 McCarty Springs would make 26,064 gpd (18.1 gpm) available during a drought. (NOTE: These calculations seem to assume that McCarty Springs did not contribute to Post Creek flow.) The Ventana demand (24 units, 20 staff units, 101 capacities, restaurant) was measured on August 1977 at 13,116 gpd (14.6 gpm). Since Ventana buildout (60 units) was projected at 21,000 gpd (14.6 gpm), it was concluded that sufficient water was available for buildout of the inn. (NOTE: Ventana's measured use was only 13,116 gpd (9.1 gpm). Subregional Analysis data estimated it at approximately 30,000 gpd (20.8 gpm) and this is reflected in the watershed demand figures used by Mahoney. For accuracy all of the above affected calculations would require revision.)

The Plan did not adequately address the cumulative impacts of buildout on seasonal flows or the reservation of in-stream flows to protect riparian habitat. Subsequent review of water use under Ventana's reapplication for the additional 20 units determined that McCarty Springs contributes significant quantities of water to Post Creek providing important protection of the steelhead fishery. The Department of Fish and Game (see Exhibit 6, attached) stated that 50% of normal year flows of McCarty Springs [22,000 gpd (15 gpm)] is required to protect the steelhead habitat. Permit conditions for the Ventana 16 units specified that water to be taken from Post Creek and McCarty Springs must be limited so that in no way does it harm natural resources. Accordingly no water should be withdrawn from McCarty Springs during drought periods since its drought period flow is 17,280 gpd. The re-application was denied, since it was not shown that adequate water for habitat protection and other development including priority uses within the watershed would remain.

Applicant's Current Water Management Plan

The applicant has provided a "Post Creek Watershed Study" (March 1982) and two additional clarifying follow-up letters (July 30, 1982 & August 23, 1982) which evaluate water supply and demand, they conclude that future water withdrawals will not affect the natural environment, except that under severe drought conditions water conservation and conjunctive water use programs should be undertaken to protect the fish habitat in the lower 1/3 of Post Creek. The applicant's water management plan is submitted as compliance with LUP policy condition 3.4.3.2 which requires that a water management plan evaluate stream resources and must establish a level of water withdrawal consistent with protecting and enhancing stream resources. The plan must bind both existing and potential users and be approved by the Department of Fish & Game. The applicant's current plan has two major components: an analysis of the water supply and demand for the overall watershed; and an analysis of Ventana's own water supply and use and its relationship to stream flow.

(a) Overall Watershed analysis: See Exhibit 7

The following represents the applicant's estimated yields from sources, developed and undeveloped.

| <u>(Summer Months)</u> | <u>Normal Year GPD</u> | <u>Drought Year GPD</u> | <u>Exhibit 3</u> |
|------------------------|------------------------|-------------------------|---------------------------------|
| 12 Springs and | 125,000 | 50,000 | CCC-13-CD-06 & CCC-13-RO-06 |
| Post Creek | 375,000 | 120,000 | (Sean Parker and Neraida LLC); |
| Total Surface Supplies | 500,000 | 170,000 | CCC-13-CD-07 & CCC-RO-07 |
| Ground Water (5 wks) | 145,000 | 97,999 | |
| TOTAL | 645,000 | 267,000 | (WTCC Ventana Investors V, LLC) |

Historic flow measurements not being available, surface source data is largely estimated. For comparative purposes, the Big Sur watershed hydrograph (see Exhibit 8) shows that approximately 11% of discharge occurs in the summer months, June through September. Assuming a direct relationship, the Post Creek watershed (1.5 sq. mi.) in an average rain fall year in summer would discharge 399,841 gpd or 277.6 gpm (42% runoff ratio), and in a drought year (15.48" of rain) 174,375 gpd or 121 gpm. Using the watershed area determined by the subregional analysis (1.36 sq. mi.), the figures fall to 360,309 gpd (250 gpm) average summer day and 158,326 gpd or 110 gpm during a drought year. Drought year estimates then range from 158,326 gpd to 174,375 gpd (110 - 121 gpm).

The extent of groundwater stored in the watershed is essentially unknown, however, Geoconsultants Inc. in their Hydrogeological Review of the "Existing Well, Ventana Inn, Big Sur" (Sept 20, 1982) had the opinion that most spring resources which feed Post Creek originate in Sur series rocks and that the well log for Ventana's well indicates that water is probably obtained mostly from Franciscan rocks. "Because Franciscan rocks do not appear to contribute as much as Sur series rocks to stream flow in Post Creek, use of the well should not affect Post Creek." (Exhibit 9 attached.)

"Because no hydrologic data relating to Mule Canyon Creek is available to us at present, we cannot say with certainty that pumping the well will not affect this watershed. However, based on topography and known geology, the most likely area to be affected probably would be the north-south canyon south-west and directly across Highway 1 from the well. If any springs exist in this canyon and lie at similar or greater elevations to the water level in the well (approximately 850 feet above sea level), they may influence or be influenced by the well.

"Based on the available data and the discussion presented above, we conclude that pumping the Ventana Inn well should not affect the Post Creek watershed, because the aquifer supplying the well with water does not supply Post Creek with most of the Creek's flow. Also, we conclude that while sufficient data is not available now to determine the relationship between the well and the Mule Canyon Creek watershed, if any hydrogeologic connection did exist, it should be evident in a small, specified area."

Mule Creek and Graves Creek together form a small watershed that empties into the sea south, immediately below the Coastlands subdivision. The north-south canyon referenced in the hydrologic review is the ravine which splits the Coastlands Subdivision. The ravine joins a south west canyon with a perennial (unnamed) stream that joins Mule Creek-Graves Creek system. Graves Canyon has been designated a watershed restoration area in the LUP. However, Mule Creek and its water sources reach Graves Canyon close to the sea and below water resource problems. The Mule Creek water system was licensed in 1957 for the "amount actually beneficially used" which was determined to be 7000 gallons per day. The Report of Inspection by the Division of Water Resources engineer notes that the "use after the middle of July is probably greater than the water available from Mule Creek." There have been reports by residents that Mule Creek has been water short. Other residents attribute this to facility problems.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Water Budget:

On the following page is the applicant's Post Creek Water Budget Urban Demand Chart. As noted above, actual measurements for most figures are not available. Comments by residents on current demand figures include that Coastland's current summer demand is likely higher, and reported water supplies via Ventana to Burleigh, Leavy, and Gelbart properties differ from previous metered readings (over 800 gpd was used by just one of these parcels during the drought). By deed Ventana is required to supply up to 2500 gpd to Leavy and enough water to supply two residential structures on Burleigh's parcel. Gelbart's parcel is undeveloped, (Deed agreement unknown). Lacking metering and in accord with previous analysis of 200 gpm per household, the applicant's current demand figures are not unreasonable estimates. However, in accord with user comments, demand has been revised upward to provide more conservative and, hence, resource protective data.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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POST CREEK WATER BUDGET
URBAN LAND

| PROPERTY | ACREAGE | SUPPLY GPD-SUMMER AVERAGE | DROUGHT | DEMAND GPD-SUMMER CURRENT | LUP | COMMENTS |
|---------------------------|---------|---------------------------------|------------------|---------------------------------|------------------------------|--|
| VENTANA | 243 | 230,000 | 72,000 | 25,000 | 32,000 | Actual Average & Drought year measurements. Includes existing supplies from upper 1/3 Post Creek, Kelm, 1/2 McCarty Springs & Well. LUP 20 additional Inn units. |
| State Park | 41 | -0- | -0- | -0- | -0- | Vegetation and wild life only. |
| LANGUM | 193 | 6,200 | 3,000 | -0- | 2,000 | 1 spring. LUP 4 residences. |
| BALLARD | 12 | 500 | 500 | -0- | 500 | Groundwater. LUP 1 residence. |
| KELM | 120 | 7,200 (6,200) | 3,000 (2,000) | -0- | 1,000 | 2 springs. Excess over 1000 to Ventana. LUP 2 residences. |
| POST | 172 | 50,000 | 21,000 | 2,000 | 20,000 | Well and springs. LUP 60 unit Inn and existing homes (2). |
| RAMISTELLA | 12 | -0- | -0- | -0- | -0- | Water supplied from outside watershed. LUP 1 residence. |
| FLORY | 8 | 1,400 | 700 | 500 | 500 | Well. LUP 1 residence. |
| CHAPPELLET | 69 | 7,000 | 3,000 | 500 | 1,000 | Well. LUP 1 residence. |
| YAEGER | 55 | 45,000 | 20,000 | 1,000 | 16,000 | Well and spring. LUP commercial, 2 residences and 40 unit Inn. |
| STATE HWY. | 13 | -0- | -0- | -0- | -0- | No water demand. |
| BURLIEGH, LEVY BELBERT | 30 | 1,500 | 1,000 | ± 1,000 750 | ± 2,000 1,500 | Post Creek surface supplies via Ventana. LUP 3 residences. |
| REDICK | 1 | 500 | 500 | 500 | 500 | Groundwater. |
| SUBTOTAL | 969 | 349,300 | 124,700 | 30,250 | 65,000 | |
| COASTLANDS | -0- | 30,000 | 11,500 | 7,500 ±10,000 | 9,000 ±11,500 | Post Creek surface. LUP 3-4 additional residences. |
| TOTALS | 969 | 379,300 | 136,200 | 37,750 ±40,500 | 84,000 ±87,000 | Exhibit 3 CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC) |

Revisions
CC staff

Staff Comments:

The applicant's LUP buildout water demand projections are based on an analysis of LUP designations and slope density. Staff analysis of topography, access, septic system capacity, etc. confirms that the overall projections are reasonable estimates with the few staff revisions. The current designated land use areas were delineated by Monterey County in compliance with LUP conditions to provide legible scale maps. The Big Sur Land Use Plan has not been accepted by Monterey County as modified by the Commission and proposed revisions to the plan may affect land use designations. However, it is not likely that a more intense development of the Post Creek area will be found appropriate due to known resource constraints.

While the applicants urban demand water budget is not numerically refined because of limited data it does broadly show that potential additional residential water use dependent on Post Creek watershed is a modest +21 units (21 X 500 gpd = 10,500 gpd = 7 gpm); that properties that may support commercial uses have existing groundwater supplies, as well as springs; and that existing water supplies can adequately provide for buildout water needs in an average rainfall summer. The relationship of water available for buildout in dry years is not clear enough to conclude adequate surface flows remain for natural resources.

Water Supply Problems and Mitigation:

The applicant acknowledges potential drought year supply problems and recommends "that Monterey County and the Coastal Commission should require all applicants for development permits to adopt water conservation programs, including: 1) Installing of low-flush toilets, shower restrictors and restrictions on non-native landscaping; 2) Require use of grey water systems for landscape irrigation when acceptable by the Monterey County Health Department; 3) Public education regarding water use; 4) Special conditions regarding operations during a severe drought, including Ventana Inn's proposal to install a pump system in the lower reaches of Post Creek which will deliver water from the Big Sur River to the steelhead spawning grounds; and 5) All applicants for new developments should be required to implement a conjunctive water use program during drought years. During normal rainfall years there appears to be no need to impose water use restrictions other than normal water conservation practices, plus monitoring of water consumption. During drought years strict water conservation programs, conjunctive use programs, habitat protection proposals and as a last resort, closing of visitor serving facilities should be required of property owners."

(b) Ventana Inn Water Supply, Demand, & Management Analysis

The applicant's second water management component addresses specifically Ventana's role in water use and management. The keypoint of the Ventana Inn management plan are:

(a) total water consumption for the expanded inn (see Exhibit 10, attached) would be 32,000 gpd (22.2 gpm);

(b) on-site water sources are sufficient to supply the Inn's needs with adequate water remaining for the natural system except in severe dry conditions;

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);

CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

(c) strict conservation measures including a reduction in water consumption and use of ground water could assure the minimum stream flow of 60 gpm established by the Department of Fish and Game as needed to protect fishery resources during most dry periods.

Though it would be most useful to assess the seasonal variations and in particular focus on low stream flow months (June through September), only a limited number of measurements are available. The applicant (as does the EIR) uses the water system supply capacity of November 1975 as a historic "normal" period and of May 1977 as a "drought" year supply. These months are also for comparative purposes included on Water Supply Chart, Exhibit 13. During these two months adequate water for Ventana use (at 22.2) was collected (though there was insufficient flow for fishery resources in May 1977 if the most conservative analysis is used.) The applicant's analysis of projected current normal and drought year supply included additional supplies from the redrilled well, improved water inlets and an assumed flow in the upper stream.

Ventana Inn Water Supply
(See Exhibit 12, letter, Sept. 9, 1982)

| <u>Source</u> | <u>Normal Rainfall (11/75)</u> | <u>Drought Year (5/77)</u> |
|------------------------------|--------------------------------|----------------------------|
| Coastlands Overflow | 21.00 | 0 - 2.46 |
| Restaurant Well | 25.00 | 12.50 |
| Campground Spring | 10.00 - 20.00 | 5.86 - 11.72 |
| Post Creek Inlets | 45.00 | 12.60 |
| Post Creek Upper Main Stream | 135.00 | 12.60 |
| Redwood Spring | 17.00 - 34.00 | 3.16 - 6.32 |
| McCarty Spring | 18.50 - 37.00 | 7.96 - 15.90 |
| Available to Ventana | 271.50 - 317.00 | 54.67 - 74.10 |
| McCarty Springs Recharge | 18.50 - 37.00 | 7.95 - 15.00 |
| Total Supply | 290.00 - 354.00 | 62.62 - 90.00 |
| Ventana Demand | (22.20) | (22.20) |
| Available to Post Creek | 267.80 - 331.80 | 40.42 - 67.80 |

- 1) Well redrilled and pump tested.
- 2) High estimates based on reconstructing spring inlets.
- 3) Assumes Post Creek inlets can capture 1/4 of stream flow.
- 4) Assumes Post Creek inlets can capture 1/2 of stream flow during drought.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Staff Comments on Supply Chart

- (1) Improvements to Ventana's spring and creek diversion system will increase the system collection capacity. However, unless the springs are hydrologically independent of the creek system, there would be a related decrease in creek flow (or diversion from the natural course of water movement).
- (2) Coastlands overflow should not be included for drought supply since there was often no overflow during the drought; in any case Coastlands overflow now contributes directly to Post Creek and is not directly picked up by Ventana.
- (3) McCarty Springs cannot be used as a supply during the drought. (Nevertheless, the flow remains as available for Post Creek).
- (4) Assumptions of uncaptured stream flow cannot be verified due to lack of in field measurements.
- (5) The redrilled well (260 ft) produces 25 gpm. An investigation by Geological Consulting, September 1982, quoted previously, reported that the well would not draw much from the Post Creek watershed sources and its use will not affect Post Creek flows. This well failed at shallower depths, the capacity to sustain a 25 gpm supply over a long period is unknown. The applicant assumes during dry periods a potential long-term supply of 12 gpm. This supply could be more or less.

Previous Supply Measurements: Over the years Ventana has taken a series of measurements of the quantity of water they divert from Post Creek and its tributary system. These do not measure use since the unused water supply overflows back into the creek system. Nor do they measure stream flow since even under drought conditions some percentage of flow probably bypasses the system. The measurements indicate the delivery capabilities of the water supply facilities under various hydrology conditions and hence the quantity of water to which the applicant has access. However, because Ventana is the only major surface source user excepting Coastlands, and is downstream of all other users, the supply measurements, in conjunction with lower creek drought flow measurements yield some factual information.

In August 1977 Ventana collection facilities gathered 19.22 gpm (less than the 22.2 needed for buildout). Improvement of McCarty Springs could supply an additional >12 gallons. However, as the second summer of a severe two year dry period, flow in the lower creek can be assumed to be no greater than the 12.1 gpm measured in September 1976, the first dry season. Therefore any increase in Ventana consumption (McCarty Springs) would further deplete the already limited surface flow. And, in fact, if all water used from the watershed during these dry periods (variously estimated between 17 and 29 gpm) could be directly returned to Post Creek as surface flow, the flow (29-41 gpm) would still be less than the 60 gpm needed (according to the DFG) to support the steelhead trout. That is, with or without human consumption, there was inadequate flow for fisheries resource. Hence, during extreme dry periods existing or intensified water use would need to be offset by alternative supplies in order to protect natural resources. (See Exhibit 13)

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Analysis

1. Water Resources: Water resources information used by the applicant and the staff, provided in background reports i.e., the Big Sur Subregional Analysis, Black and Veatch draft plan and policies, etc., is preliminary data not intended for application to specific development projects. Theoretical extrapolations are not refined enough to support conclusions where a minimal difference in quantities of water could affect a resource. According to the LUP a water management plan should evaluate the resources of the stream and establish a level of water withdrawal consistent with protecting and enhancing the stream's natural resources; it should bind existing and potential users, and be found adequate by the DFG. The DFG itself has reviewed fishery resources for Post Creek and established a minimum dry month flow (60 gpm). However, a safe level of water withdrawal cannot be established because the total amount of water available remains unknown. Hence, while the applicant's watershed analysis provides a broad sense of potential development and water demand and supply, the data is not firm enough to justify the assumption that buildout of the watershed will not affect resources. And, in fact, data indicates that alternative supplies, i.e. via storage facilities or groundwater that will not affect surface flows, are necessary.

2. Ventana as an Individual Water User: In its previous applications to the Commission, Ventana reported its use (August 1977) as 13,113 gpd (9 gpm). Its additional needs would be based on 113 gpd per unit and approximately 80 gpd per staff unit. Hence in approving 16 additional units and 2 staff houses, an additional use of 1968 gpd for a total demand of 15,081 gpd (10.5 gpm) would be expected. However, Ventana's current use is 25,000 gpd (17.4 gpm). Its buildout use is projected at 32,000 gpd (22.2 gpm). This is an intensification of 11.7 gpm over its "expected use" and 4.8 gpm over its actual use. Staff also recommends public recreational facilities be developed in conjunction with the application which would increase use by 2112 gpd and Ventana is obligated to supply +2000 gpd to residential parcels. Ventana's projected water need is then 36,440 gpd or 25.3 gpm. Ventana has installed water saving devices on most fixtures. The applicant also reports (see Exhibit 12) that in future drought conditions 5,000 gpd can be saved by eliminating external watering alone and that additional conservation measures can and will be taken to guarantee that 60 gpm surface flow will always be available for natural resources.

Ventana now has a new water source in its redrilled well. According to Engineering Geologists Debra Moser and Jeremy C. Wire of Geoconsultants, Inc., use of this well will not affect Post Creek Watershed. Hence, this well could be used during dry periods at 12 gpm in conjunction with the approximate 10 gpm from surface sources ("existing" drought use) and with the suspension of external watering at 3.8 gpm could provide for buildout without intensifying use of Post Creek watershed water, i.e. no increased damage to resources. However, the approach in itself remains hypothetical. Though analysis of well water source may be well founded, it is not conclusive. Only with the commitment of the applicant to provide for the permanent protection of resources can the development be found consistent with Section 30231 of the Coastal Act which requires protection of the biological productivity and quality of coastal waters by among other means "preventing depletion of ground water supplies and substantial interference with water flow". Hence, this form of management must include a conservation and enhancement program to mitigate existing impacts as well as provide for mitigation of any additional impacts.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Future Water Management

Based on the Big Sur River Hydrograph minimum stream flows for Post Creek are expected to occur in dry summer months and be lowest in September. A series of stream flow measurements over a period of years would be optimum to accurately describe the relation of rainfall and water use to stream flow. In the case of Post Creek, measurements at the head of the fisheries resources below all surface diversions would be critical to evaluating and preventing impacts to natural resources. (Ideally, no upstream diversions should be taking place at the time of measurement.)

Previously only two actual measurements of surface flow near the steelhead spawning area existed. These were during the drought year in September 1976 when 12.1 gpm flowed and in November of 1976 when only 3.6 gpm was measured. To provide a framework for anticipating for long term resource protection needs staff has measured Post Creek flow.

Measurements of stream flow below the log jam were taken in September 1982 by Commission staff. 1981-1982 rainfall was 62 inches, 22 inches above the average. Streamflow was measured at 207 gpm (15% added to account for leakage around measuring point). With the two September measurements an assumed water supply ratio was plotted, historical September runoff percentages charted, and using the 60 gpm as a minimum flow requirement by DFG, a perspective on relative availability of water can be gained and a data collection and management plan for Ventana Inn can be outlined which incorporates the proposed mitigation measures submitted by the applicant. (See Exhibits 14, 15, 16, attached).

Theoretical September Low Flows
Distribution Chart GPM

| I | II | III | IV | V | VI | VII | VIII |
|-----------------|---------------|------------------------------------|------------------|---------------|----------------|---|-------------------------------|
| % of Occurrence | Runoff Supply | Fishery Demand Lower 1/3 Post Crk. | Balance (II-III) | Human* Demand | Balance (IV-V) | Supplemental Well Water To Be Used During Low Flows | Surplus or Deficit (VI(-)VII) |
| 1% | ±225 | 60 | 165 | 35.5 | 129.5 | | 195.5 |
| 9% | 207 | 60 | 147 | 35.5 | 111.5 | | 111.5 |
| 15% | 175 | 60 | 116 | 35.5 | 80.5 | - | 80.5 |
| 19% | 128 | 60 | 68 | 35.5 | 32.5 | | 32.5 |
| 31% | 96 | 60 | 36 | 35.5 | .5 | | .5 |
| 21% | 60 | 60 | | 35.5 | (35.5) | 12 | (23.5)** |
| 4% | 12 | 60 | (48) | 35.5 | (83.5) | 12 | (71.5)** |

*Includes Ventana buildout plus Ventana residential commitments - 25.5, current uses 10 gpm. Does not include additional (27.7gpm) estimated watershed buildout.

**Applicant proposes fishery enhancement project to meet 60 gpm min. flow requirement if conservation measures on site cannot meet resource need.

Exhibit 3

This chart presents a theoretical construct; however, it probably represents a worst case picture, and hence, provides for restoration protection.

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Additionally, neither of the basic measurements (12.1 and 207 gpm) accounted for possible upstream diversions which could add several gallons per minute (that is, demand may be counted twice). And, finally, a common rule of thumb is that 50% of water used is returned to the watershed via leachfields and irrigation. Theoretically, at least, the above chart data is therefore very conservative, and perhaps 10's of gallons below actual flow.

The chart indicates that 75% of the period, water adequate for users and resources was available. During 25% of the period if adequate water is reserved for fishery resources, inadequate water is available for users. To assure that water is available to fishery resources, Ventana must incrementally reduce its surface water consumption to zero if necessary and rely entirely on its well water. (However, it may supply legal water commitments (Leavy, Gelbart, Burleigh) from surface flows.) According to the applicant's analysis it is unlikely that this will be necessary except in severe droughts. In severe drought conditions additional actions may be implemented to protect resources as indicated below.

Special Efforts to Enhance Post Creek Natural Resources

Historic data indicates that Post Creek has inadequate flows to support its steelhead trout in severe drought years. The applicant proposes in his management program (see Exhibit 7) that as a special condition Ventana would install a standby pump system in the lower reaches of Post Creek in Pfeiffer Big Sur State Park which will deliver water from the Big Sur River to the steelhead spawning grounds during severe droughts. The concept has been endorsed by the California Department of Parks & Recreation and by the Department of Fish and Game and is consistent with LUP policies. According to the applicant Ventana would be responsible for the maintenance and operation of the pump and waterline and DFG would advise when additional flow was needed for management of the steelhead fishery. Under Section 3.4.3.3 Rivers and Streams, special efforts shall be made to protect adequate year-round flows in stream supporting steelhead trout. Since the applicant's current use (and that of all watershed users) is significantly contributory to reducing flows to a level that cannot support the fish, the standby pumping system is an appropriate mitigation project. (Exhibit 20)

CONCLUSION

Section 30231 of the Coastal Act protects coastal marine resources and Section 30250(a) requires that new development have adequate public services and not contribute individually or cumulatively to impacts on coastal resources.

The Big Sur Coast Land Use Plan provides that the natural stream community be protected in the driest expected year. "Driest expected year" is not defined but both LUP background reports and Commission staff use drought year 1976-77 (driest in 68 years recorded) as the standard. The corresponding stream flow standard for Post Creek is the September 1976 measurement of 12.1 gpm (although the November, 1976 measurement of 3.6 gpm was the lowest ever measured).

Basically, Ventana uses spring and surface creek flow as the LUP requires (3.4.3.3) and though the existing well is at a relatively higher elevation in the watershed (3.4.3.3), it does not according to hydrogeologic review tap underground stream reserves. In addition Ventana proposes to undertake a special effort to protect adequate year round flows with its water pump system from the Big Sur (3.4.3.3) River.

For Big Sur where evidence exists that watersheds are or may be watershort, such as Post Creek, additional LUP policies apply:

- a) For Post Creek watershed applicants must submit a water management plan addressing cumulative impacts of buildout on water resources. Inadequate information exists to produce such a plan since both water supply and buildout figures are far from complete. The applicant's plan features many of the components of a plan but lacks data and authority. (Policy Condition 3.4.3.2)
- b) Or the applicant must demonstrate the environmental acceptability of the cumulative impacts of water use intensification or enhance water supply for the watershed as a whole. Again, lacking data and authority, the applicant generated information and developed approaches that may function as a framework for such an environmental plan but is not the plan itself. (3.4.3.2 Watershed Restoration)

Alternatively, the applicant has proposed a "project" water management plan that asserts the environmental acceptability of his own specific project based on zero impacts on water resources, by: a) using previous Ventana supply and use data; b) showing that adequate water remains in the creek to protect the natural system most of the time; and, c) incorporating conservation measures that will permit adequate water to remain during drought periods. Since it has been documented that less than the 60 gpm needed to support the steelhead fisheries resource was available during the last drought, were it not for the use of an enhancement program, no amount of conservation in extreme drought periods would protect the resource.

The applicant's proposal represents an intensification of water use in the Post Creek watershed. However, as previously reported by the applicant and accepted by the Commission via its approval of A-445-68, Ventana's "existing" water use should be approximately 15,000 gpd (not including residential obligations). The applicant's hydrogeologic investigation indicates that the improved well (which applicant estimates will permit an additional +17,000 gpd) will not affect stream flow. These quantities of water, 32,000 gpd, will very nearly cover all existing and proposed water needs. Hence, theoretically, no additional impacts in the stream's natural system will take place. However, continued long term well production cannot be guaranteed and it would take considerable time and data collection to be entirely sure that the well does not affect stream flow.

Additionally, the Coastal Act requires more than a minimal assurance of maintenance of existing conditions that are not optimum to begin with. "Marine resources shall be maintained, enhanced, and where feasible, restored" (Section 30230) and "the biological productivity of coastal waters and streams... appropriate to maintain optimum population of marine organisms... shall be maintained and, where feasible, restored..." (Section 30231). The LUP also does not anticipate accepting the status quo in areas where water resources are threatened. Rather it proposes special efforts to protect resources and encourages restoration of resources and, in addition, expects conservation measures to provide for effective enhancement of water resources to meet in-stream flow requirements.

Exhibit 3

Therefore as conditioned, the applicant's water management plan provides that new development will not have a net adverse impact on water resources and will improve existing conditions by providing: (a) incremental conservation measurements during low flow conditions, reducing the applicant's current and additional dependence on Post Creek surface flows to zero and providing that the applicant be responsible for maintaining a minimum creek flow of 60 gpm; (b) water monitoring features which will provide for implementing the above and will supply a data base for an overall watershed management plan; (c) a stream enhancement program which will supply water via the Big Sur River to the Post Creek fishery resource area during critical low flow periods.

Therefore, as conditioned, the proposed development is consistent with the marine resource and development policies of the Coastal Act of 1976.

HIGHWAY CAPACITY

5. Section 30254 of the Coastal Act states in part:

"...it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road...where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Section 30252 includes requirements for the provision of non-automotive circulation within the development and adequate parking or substitute transit.

Existing Situation and Proposal

The major constraint to development in Big Sur is highway capacity. Caltrans traffic data indicates that at times Highway 1 is already congested. For example, the segment where Ventana is located (Big Sur River to Anderson Canyon) is already at Level of Service E - at or near maximum capacity. Most travellers to Ventana will encounter the additional Highway 1 bottlenecks at Rio Road and Hurricane Point. Existing topography limits the extent of possible feasible improvements to the Highway in the Big Sur area.

The proposed new inn and employee units will generate additional Highway 1 traffic. How much traffic will be "new" as opposed to visitor traffic that already would be using the highway is unknown and has been subject to debate. Also, although standard hotel unit trip generation factors are available and some site-specific counts are available, Ventana has consistently contended that its facility has a low traffic generation rate, and that figures to the contrary in the EIR are in error.

Land Use Plan

The Land Use Plan limits overall density in Big Sur in an attempt to stay within available highway capacity. Given that this may be difficult to achieve, especially at peak hours, the LUP also contains a number of policies aimed at reducing trip generation, physically improving Highway One, managing traffic, and phasing development. All 500 inn units may be built before highway capacity is increased.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Analysis

With the setting of maximum densities in the LUP, individual developments can be presumed to be accommodated by Highway 1. It is still necessary under the Coastal Act and the LUP to do everything possible to minimize travel on Highway 1, and within the project site.

Ventana currently maintains or has approval for left turn channelization on Highway One, relocation and consolidation of entrance road, and an internal path and electric vehicle system. Patrons may also use local bus service (SurTreds, Monterey-Salinas Transit). The application also includes new parking areas adequate to serve the new proposed development. Also proposed is a trail between the inn and restaurant to facilitate on-site pedestrian travel. On-site employee housing will eliminate commute trips on Highway 1, although the employees and their families will use the road for other trips.

In conclusion, Ventana incorporates most measures designed to minimize trip generation. Since it is a visitor-serving development, it has priority under Section 30254. Thus, at issue is whether there is adequate highway capacity to accommodate it. The Commission's action on the Big Sur Land Use Plan has found that 500 units could be accommodated. Thus, as long as the 19 units are subtracted from the 500, the project can be considered consistent with Sections 30250a, 30252, and 30254 regarding traffic.

LOWER COST 6. Section 30213 of the Coastal Act provides that lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

Developments providing public recreational opportunities are preferred. Section 30223 requires that upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Existing Situation & Proposal

Provision of Lower Cost Facilities: This application involves the provision of a new higher cost visitor facility and development of a low-cost facility in the form of a public picnic area with parking.

The high-cost facility is 19 inn units, which will each rent for about \$150 per night. When this project was previously before the commission some concern was expressed about additional high cost units being constructed in Big Sur and the percentage of total units that would be high-cost. Ventana's rates remain the highest in the area. But Ventana previously contended that its rates were "average to below average" when compared to other fine inns and hotels in California and that its inn and campground rates should be averaged together for purposes of analysis.

As an additional mitigation measure, the applicant proposes the development of a small picnic area above Highway 1 off the restaurant access road as a low cost visitor facility. (See Exhibit 17, attached.) With the provision of a public restroom and signing to direct the visitor to the site, the area would provide the traveller a convenient rest area in close proximity to the Ventana convenience store (and small grocery stores in Big Sur Village) as an alternative to restaurant dining.

The application also includes the conversion of 15 campsites (\$7/night) to tent cabins (\$20-25/night), and proposes establishment of a convenience store. (This partially replaces the store/deli/gas station that the Commission recently permitted to be demolished.)

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Loss of Lower Cost Facilities: This application also involves a possible reduction in lower-cost visitor and recreational facilities. Ventana's 1978 Commission presentation reported that it maintained 100 campsites. Although seven of these were used by employees, Ventana indicated that in peak periods the employees would be moved elsewhere. Ventana also stated to the Commission at that time that eleven other staff members were living in the campground area, but not on official sites (a situation which violated maximum County-approved density).

The 1978 County use permit requires "that not less than 50 no more than 101 campground sites be maintained in good order and at comparable prices to other campgrounds in the area." This application includes the conversion of some campsites ("lower-cost visitor facilities") to employee housing. However, Ventana views it as a legitimization and upgrading of an existing situation (ie; no change in use). Ventana indicates that currently 21 out of the 101 campsites permanently house employees. Since this project utilizes only 8 campsites for the proposed houses, 93 campsites for public use will result. [Ventana has expressed in correspondence a willingness to provide 8 replacement sites if necessary].

As the above water finding #4 indicates, Ventana will be practicing water conservation measures. One possible measure is to close facilities, which could affect the available lower-cost recreation opportunities.

Land Use Plan

The LUP as submitted and as modified provides:

5.4.3.6-8. Projects for new or extensively expanded recreation and visitor-serving facilities shall provide low-cost recreational facilities as part of the development. The establishment of low-cost hostels in Big Sur is encouraged as part of a comprehensive hostel system for the California Coast.

Additionally a LUP modification requires that any visitor-serving project over 5 units will be required to enhance and/or provide public coastal recreational opportunities. The trails map shows a route in the vicinity of Ventana parallel to Highway I and leading toward Los Padres National Forest (Ventana Wilderness). The LUP, as conditioned, is limited to 500 new visitor-serving lodge or inn units; no percentage or amount of low-cost facilities relative to high cost facilities is specified.

The LUP has no specific policies addressing loss of lower-cost visitor facilities.

Analysis

Several Coastal Act issues are involved in this application including loss of campsites, provision of low-cost visitor facilities, trail connection, and conversion to tent sites.

Although up to 13 campsites will be returned to public availability, when the employees move to the new staff housing, the end result of the application is 8 fewer potential lower-cost visitor units. Under the Coastal Act, these existing, legal camp sites should be retained or replaced. Ventana has indicated that its facility only infrequently reaches full occupancy, but overflow crowds at other Big Sur campgrounds suggest there would be demand for all Ventana's sites, if better publicized.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);

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Ventana has also indicated that closing campsites may be a measure used to conserve water. Under the Coastal Act, any such closures should occur on an equitable basis with higher-cost facilities. Also, it is important that conservation measures do not result in other adverse impacts, such as using Highway 1 to go to a laundromat if Ventana closes its laundry. These concerns can be addressed when the Executive Director reviews the conservation plan as conditioned.

The Coastal Act and the Land Use Plan also clearly require provision of lower-cost recreational opportunities as a component of a newer higher cost facility approval (i.e., the 19 inn units). No standard is included in the Land Use Plan as to how much low-cost recreation is appropriate; this determination is left to case-by-case evaluation. It is clearly feasible for Ventana to provide additional facilities; its site location suggests suitability for more camp spaces or a hostel. The latter was once suggested for the historic Post House, which is now proposed for a store and staff housing.

One attractive possibility for more campsites is on a portion of Ventana-owned property adjacent to Pfeiffer-Big Sur State Park. Enough space exists for at least 30 walk-in sites, which would require minimal development and management costs if operated in conjunction with the adjoining, existing state park campground. This project could satisfy the requirements for both the replacement and the new lower-cost facilities. However, since local approval would be required, and there may be other potential projects for Ventana to undertake or participate in, flexibility is desirable; there may be equivalent projects which could meet the requirement to provide replacement and new lower-cost facilities. (See Exhibit 19.)

The Coastal Act and the Land Use Plan would also require appropriate trail connections along Highway 1 and to the Los Padres National Forest. An easement for part of this trail link has previously been required by Monterey County.

The documents should be revised as necessary to ensure that pedestrian access is permanently provided for along the entire length of the Ventana entrance road and Coast Ridge Road through the property. Signs should reflect this opportunity for public pedestrian use (i.e., existing prohibitory signing should be modified); and an off-shoulder trail between the proposed picnic area and the newly paved section of Coast Ridge Road should be provided to avoid vehicular and pedestrian conflicts.

An offer to dedicate a trail easement parallel to Highway 1, connecting the Coast Ridge Road/trail to Pfeiffer-Big Sur State Park (specifically, the U.S. Forest Service's Ventana Wilderness trail head parking lot within the State Park), is also necessary to provide lateral coastal access, as conditioned. (See Exhibit 19). Wherever possible, hiking trails adjacent to public roads should be located on alignments away from and parallel to the road (rather than on the shoulder). Vehicle-pedestrian conflicts are minimized, and the quality of the hiking experience enhanced. In the case of Coast Ridge Road, however, for the most part this policy would appear inapplicable: the route is narrow, unsurfaced, and provides no opportunity for widening without environmental damage. The road is a U.S. Forest Service administrative route over private land, and, except for hikers and equestrian traffic is not open to public use. Only a few privately-owned parcels are served by the road, so motor vehicle traffic will remain infrequent. Accordingly, the Coast Ridge Road itself beyond the Ventana entrance road constitutes a satisfactory trail route and no off-shoulder pedestrian route is required for this segment. Exhibit 3

The Coastal Act is somewhat vague on the question of conversion among different "lower cost" facilities, as represented by the proposal for 15 tent cabins on existing campsite spaces. The cabins will rent for about three times the campsites. Compared to Ventana's inn units, they are clearly lower cost. Also, relative to other indoor overnight facilities in Big Sur, they are slightly lower cost than the average. There are no similar facilities in Big Sur to compare them with. They will increase the range of types and prices of accommodations available on the Ventana site. This positive feature must be balance against the possible precedential effects on converting other campsites in Big Sur. The current limited proposal should be considered an experiment, consistent with Section 30213 as maintaining "lower cost" units. Any future proposals will require further evaluation to ensure that the intent of Section 30213 to protect lower cost facilities is not lost.

In summary, as conditioned to require provision of public restroom and signing for picnic area, replacement campsites, publicizing campground, new lower cost facilities, trail easements, and permit amendments for future closures or conversions, the proposed project is consistent with Sections 30213 and 30223.

SCENIC
RESOURCES

7. Section 30251 of the Coastal Act States:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253(5) of the Act states in part that new development shall... (5) where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Existing Situation and Proposal

The proposed Ventana Inn expansion and associated developments are located at the southern end of the Big Sur Valley. This area of Big Sur lies within a "highly scenic are" as indicated by the California Coastline Preservation and Recreation Plan. The building sites, parking areas, and the locations of other proposed improvements addressed by this permit were subject to field investigation by Commission staff. This investigation revealed that the proposed development sites have been carefully located behind existing natural or introduced areas of vegetation, as seen from Highway 1. The field visit therefore confirmed the applicant's assertion that all of the current development proposal will be screened from Highway One and other critical viewpoints.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Land Use Plan

The protection of Big Sur's magnificent visual resources is given the highest priority in Monterey County's Big Sur Coast LUP. The key policy requires that new development be placed out of view of Highway 1, a designated State Scenic Highway. While the listed exceptions are few, the Plan does allow for further development of commercial visitor-serving and community facilities within four existing nodes of such development (termed "Rural Community Centers"). The Plan, as conditioned, also permits visitor-serving development in the viewshed elsewhere if it can be screened from Highway One. Finally, the Plan contains design criteria for development outside of the critical viewshed.

Analysis

While the existing Ventana complex - especially the area adjacent to Highway 1 - directly impacts public views, none of the proposed development lies within the critical viewshed defined by the LUP. Also, because at least a portion of the LUP Rural Community Center land use designation applies to the site, the LUP visual resource policies would allow development to occur where indicated on site plans. Unfortunately, the boundary of the Rural Community Center (RCC) on the County's Land Use Maps is indistinct; when correctly mapped in detail, as required by the suggested modifications attached to the Commission's approval of the LUP, it is expected that, at a minimum, all of the inn units, developed Highway 1 frontage, and restaurant will be included in the RCC.

As required by the Big Sur Coast LUP for sites not in the critical viewshed, the applicant has selected a design approach which subordinates the development to the site's environmental features. This effect will be achieved by continuing the same design philosophy seen in the existing Ventana development: relatively small-scale buildings (two-story maximum), clustering, all-wood exteriors allowed to weather naturally, placement on the contour of the land to minimize grading, and profile generally lower than the surrounding trees. Both natural vegetation and (in the case of the lower parking area) recently-installed landscaping will screen the site from Highway One.

Although the LUP emphasizes the retention of a natural environment, it does allow landscape screening to be used where "a moderate extension of native forested and chaparral areas is possible". It also provides that "other screening must be of similar plant or tree species". To ensure that the project's landscape screening will present the necessary natural appearance, the permit is conditioned to provide for Executive Director review of project landscape plans.

Experience has shown that inappropriate types or placement of night illumination detracts from the area's rural character. Accordingly, the permit is conditioned to preclude any new light sources which may be directly visible from Highway 1.

The LUP only suggests a study of possible visual restoration areas. The Commission has previously granted Ventana a permit to remove its roadside buildings and relocate its entrance road. Ventana has provided a general landscape plan, which when implemented, will result in restoration of a formerly developed area in the critical viewshed.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

The Big Sur Coast Land Use Plan encourages the use of scenic and open space easements as an important tool in protecting the area's outstanding visual resources. As a condition of Ventana's original permit issued by Monterey County, a scenic easement covering certain portions of the Ventana site was recorded in 1972. Now, approval of this coastal permit will allow virtual completion of the project at the scale envisioned in the original County permits.

However, in 1972 the current concepts of Highway 1 viewshed protection had not yet been formulated; as a result, some highly visible forest and grassland areas outside of the development "envelope" appear to be unprotected. Also, the crucial role of the native forest cover in screening the various developments on the site is now fully appreciated. Therefore, because this is an appropriate time to permanently define those portions of the site which will be left in open space; because of the need to insure the protection of the Post Creek riparian corridor and other forest areas which will screen the existing and permitted development; because the Big Sur Coast Land Use Plan demands a high standard of protection for the Highway 1 critical viewshed; and because this project may be considered as precendential for any other major commercial developments on the Big Sur Coast, this permit has been conditioned to require review and possible modification of the existing scenic easement covering the Ventana site.

In conclusion, the Commission finds that the project's siting and design features, together with landscape screening as conditioned, are consistent with the protection of coastal visual resources as provided by Coastal Act Section 30251 and 30253(5).

WASTE DISPOSAL

8. Under Section 30250 of the Coastal Act new development must be located where there are adequate public services and where it will not have significant adverse effects, either individually or cummulatively, on coastal resources.

Coastal Act Section 30231 directs:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, and, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Existing Situation and Proposal

No public sewage treatment facilities are located in the Big Sur area. The applicant's current development is served by an on-site septic tank and leach field sewage disposal system. Currently, several separate septic systems serve the existing development, most improved in conjunction with the construction of the previously approved 16 inn units.

The application proposal includes an addition of trenches to an existing 3000 gallon septic tank and leachfield system, to serve the 17 additional units in the upper meadow area, a sewage effluent trench and two (no toilet effluent) gray water sewage effluent trenches. A new 1500 gallon septic tank and pump system will be located near the proposed staff building and effluent will be pumped to new trenches adjacent to existing staff dormitories. Additonally, it is proposed that the new staff recreation laundry building connect to an existing system.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Land Use Plan

The Land Use Plan has no specific policies regarding wastewater facilities. Any such facilities would have to comply with the various resource protection policies of the Plan.

Analysis

Monterey County Environmental Health Department has made a preliminary assessment of the new system. However, to date the Commission has received no evidence that the county has reviewed the capacity of the existing system to accept additional effluent from the staff recreation/laundry building. Hence, this use cannot be approved by the Commission at this time. Also, Monterey County septic approval will be necessary for the required new campsites and picnic area restroom, as conditioned.

Additionally, the Regional Water Quality Control Board (RWQCB) has informed staff that the applicant has not filed an application for a Report of Waste Discharge. To insure conformance with RWQCB standard and Coastal Act marine environment policies the Regional Board's approval should be granted prior to issuance of the permit.

Therefore, as conditioned to delete the staff recreational building from this project and to require RWQCB review and approval of the projects waste disposal facilities, the development is consistent with Section 30250 and 30231 of the Coastal Act of 1976.

9. Section 30253 of the Coastal Act reads in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30244 of the Coastal Act protects archeologically sensitive areas.

Land Use Plan Policies

The Land Use Plan has several policies addressing hazard protection: including appropriate siting, design, and mitigation. The LUP also requires archaeological resource protection and protection of the rural character of Big Sur.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Analysis

Big Sur fire station and has ample on-site water storage (in tanks and the pool). The County has required smoke detectors, emergency supplies, fire proof roofing, smoke detectors, and several other fire safety measures for the inn units. The combination of location, water system, access roads, as the County requires would serve to minimize the fire hazard risk. It is necessary that these County requirements be followed and applied to the staff housing as well.

The EIR and a soils report support a development on the parcel, however, lacking is an analysis of the currently proposed building sites.

Local residents have questioned the need for paving a section of Coast Ridge Road citing safety hazard created by increased vehicular speed, runoff erosion potential, and alteration of the rural character of the area.

The applicant indicates that the repeated grading necessary to maintain the road under its heavy vehicular use has actually resulted in significant lowering of the road increasing the steep upslope bank and threatening to reach the drainage pipes underlying the road. Traffic during the summer months produces dust clouds particularly disturbing to restaurant patio diners. The applicant asserts that the incident of erosion and site alteration will be higher on an unsurfaced road and that appropriate drainage will mitigate runoff impacts. Safety may be increased by signing or speed bumps.

According to the Coastal Act and LUP, retaining the rural character of Big Sur is an important goal. Any extensive and unnecessary paving could significantly alter the character of the area. Because of the heavy use of the entrance road, some form of surfacing appears necessary to minimize the grading. However, alternative and more natural surfaces may adequately reduce the impacts, i.e., decomposed granite, oiling, etc. The applicant should investigate other forms and methods of surfacing.

An archaeologic survey has been performed for the site, revealing no sensitive areas where buildings are proposed. Additionally, the applicant is restoring the old Post Homestead, a structure built in 1867 and of historical interest. The applicant has filed a nomination form requesting that the building be included in the National Register of Historic Places. Restoration of the building preserves a component of the unique character of Big Sur.

In conclusion, as proposed and as conditioned for fire standards to apply to employee housing, for a revised soils report and for consideration of alternative road surfacing materials, and safety signaling, the project is consistent with Sections 30244 and 30253 of the Coastal Act. It also complies with similar policy requirements of the Big Sur LUP.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

Page 38 of 39.

CEQA/
P
10. An EIR was prepared on the 60-unit project in 1977. A supplemental EIR addressed development of McCarty Springs. The Coastal Permit files (see substantial document list, page 1) contain much additional environmentally related information. As conditioned, the project will not result in any significant adverse impact.

Each of the above findings describes the relevant Land Use Plan provisions and analyzes how the proposed project is or can be made consistent with them. In the case of water resources, an alternative but equivalent approach to LUP resource protection policies is employed.

Therefore, approval as conditioned at this time will not prejudice implementation of Monterey County's Big Sur Local Coastal Program consistent with Chapter 3 of the Coastal Act.

Exhibit 3

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT

701 OCEAN STREET, ROOM 310

SANTA CRUZ, CA 95060

(408) 426-7390



COASTAL DEVELOPMENT PERMIT

PHASE I-C OF

No. 3-82-171 & 3-82-171-APage 1 of 2

June 10, 1986

On October 13, 1982 and , the California Coastal Commission granted to
VENTANA INN, INC.

this permit for the development described below. The permit is to be issued in
several phases subject to the attached standard and special conditions. This portion
of the permit authorizes the following work:

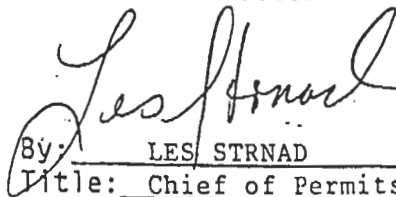
[Phase I-A Restaurant kitchen expansion (issued November 1982)
Phase I-B 15 staff housing units (issued June 1983).]

Phase I-C 19 inn units, reading/breakfast rooms, lobby improvements, Post Homestead
improvements, parking, septic system and water system improvements, lot line
adjustments, Cadillac Flats improvements, convert 15 campsites to tent cabins,
improve portions of Coast Ridge Road

[Improvements to be permitted under Phase I-D - swimming pool to bathhouse, restaurant
expansion]

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director


By: LES STRNAD
Title: Chief of Permits

ACKNOWLEDGEMENT

The undersigned permittee acknowledges receipt
of this permit and agrees to abide by all terms
and conditions thereof.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06

(Sean Parker and Neraida LLC);

CCC-13-CD-07 & CCC-RO-07

(WTCC Ventana Investors V, LLC)

Page 1 of 28

1/23/87
Date


Signature of Permittee

Application No. _____

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06

(Sean Parker and Neraida LLC);

CCC-13-CD-07 & CCC-RO-07 (WTCC

Ventana Investors V, LLC)

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California Coastal Commission
Central Coast District
701 Ocean Street, Room 310
Santa Cruz, California 95060
(408) 426-7390

California Coastal Commission
631 Howard Street, 4th floor
San Francisco, California 94105
(415) 543-8555

RESOLUTION NO. 86-22

On the motion of Commissioner:
duly seconded by Commissioner:
the following Resolution was adopted

RESOLUTION GRANTING AMENDMENT TO PERMIT FOR COASTAL DEVELOPMENT

We recommend adoption of the following findings and approval of the
A M E N D M E N T I T E M (S) listed on the June 10, 1986
California Coastal Commission agenda, subject to the findings and
conditions cited in the attached staff report.

The California Coastal Commission finds that each of the coastal
developments described in the following applications, and as condi-
tioned, will have no significant adverse environmental impacts, and
finds accordingly for each application.

MONTEREY COUNTY


3-82-171-A (Ventana Inn)

DATED: June 17, 1986

ATTEST:


PETER DOUGLAS, EXECUTIVE DIRECTOR

MELVIN NUTTER


EDWARD Y. BROWN, DISTRICT DIRECTOR

AFFIRMATIVE VOTE ON APPLICATION:

AYES: (11): Hisserich, Franco, Garrett, King, MacElvaine, McInnis,
McMurray, Knapp, McCabe, Wright, Wornum

NAYES: (0)

ABSTENTIONS:

ABSENT:

RESOLUTION NO. 86-22



9/82

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean
Parker and Neraida LLC); CCC-13-CD-07
& CCC-RO-07 (WTCC Ventana Investors
V, LLC)

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CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA
701 OCEAN STREET, ROOM 310
SANTA CRUZ, CA 95060
(408) 426-7390 8-525-4863

FILED: 5/23/86
49TH DAY: 7/11/86
180TH DAY: 11/21/86
STAFF REPORT: 5/29/86
HEARING DATE: 6/10/86
STAFF: JC - (SC)
DOCUMENT NO.: 0158P

ADOPTED

AMENDMENT

REGULAR CALENDAR

STAFF REPORT

PROJECT INFORMATION

APPLICANT: Ventana Inn, Inc.

APPLICATION NUMBER: 3-82-171-A

PROJECT LOCATION: Approximately 3 1/2 miles south of Big Sur Village,
Big Sur Area of Monterey County

PROJECT DESCRIPTION: Amendment request to amend conditions relating
to water management; to relocate the 19 inn units
and add reservation room, linen storage, reading
rooms, expand lobby; restaurant addition; modify
picnic area (Cadillac Flats); lot line
adjustment; modify recreation condition

ASSESSOR'S PARCEL NUMBER(S): 601-827-72 to 83

LOT AREA: 170 acres

ZONING: Scenic Conservation 1 du/a

BUILDING COVERAGE: Additional:
approximately 2,500 sq. ft.

LCP JURISDICTION: Big Sur Coast
segment of Monterey County

PAVEMENT COVERAGE: N/A

PLAN DESIGNATION: Rural Community
Center; Watershed and Scenic
Conservation

LANDSCAPE COVERAGE: N/A

PROJECT DENSITY: N/A

HEIGHT ABV. FIN. GRADE: Varies

LOCAL APPROVALS RECEIVED: Planning Dept. Building Locations 8/19/85;
Lot Line Adjustment 3/28/85; Use Permit (well) 7/31/85; Use Permit
(restaurant addition) 5/8/86

SUBSTANTIVE FILE DOCUMENTS: Commission Findings and Conditions 3-82-171
(Conditions attached as Exhibit 2); Big Sur Coast Land Use Plan adopted
by Monterey County March 1986; Water Resource Management Plan for
Ventana Inn, Big Sur, April 1985; Water Resources Verification, Ventana
Inn, Big Sur, April 1985; Water Resources Operational Plan for Ventana
Inn, March 1986

PTT: 3,4

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean
Parker and Neraida LLC); CCC-13-CD-07
& CCC-RO-07 (WTCC Ventana Investors
V, LLC)

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STAFF RECOMMENDATION

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

The Commission hereby grants a permit for the proposed development amendment, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONSStandard Conditions

See Exhibit A.

Special Conditions

1. Except as provided in the following conditions, all conditions of 3-82-171 remain in full force and effect. (See Exhibit 2.)
2. This permit authorizes the resiting of the inn units and building additions to the existing and previously approved structures; restaurant expansion; revisions to the recreational facilities at "Cadillac Flats"; lot line adjustment; amendments to the Water Management Plan; subject to the following conditions.
3. Final Plans and Local Approvals

PRIOR TO TRANSMITTAL OF THE PERMIT, permittee shall submit to the Executive Director for review and approval:

- (a) Final site, elevation and landscape plans for the inn units; building additions and parking area; and the "Cadillac Flats" picnic area and associated improvements. Monterey County local approvals shall accompany the submittals.
- (b) Final waste disposal system plan and evidence from the Monterey County Environmental Health Department that all aspects of the waste disposal system are acceptable.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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4. Use Restriction Reading/Breakfast Rooms

PRIOR TO TRANSMITTAL OF PERMIT, permittee shall submit to the Executive Director for review and approval and shall subsequently record a deed restriction that limits use of the breakfast reading rooms to that commonly associated with inn patron service, i.e., rooms will not be used for restaurant service, the preparation of and storage of food with minimal exceptions (coffee, continental breakfast) is prohibited and use is confined to inn unit patrons.

5. Use Restriction Restaurant/Bar

This permit authorizes a total dining/bar seating capacity of 140 seats. Service to more than 140 seats is not permitted.

6. Water Management Plan

Delete condition 6.b.(1) of 3-83-171 and replace with

"As part of the Conservation Plan for Resource Protection the permittee shall submit a final edition of the Water Resources Operational Plan by David Todd (March 1986) which shall include the following clarifications: (1) the Operational Plan is subject to the review of the Department of Fish and Game; (2) the use of McCarty Springs, its monitoring program, and establishment of "normal" year flows, shall be under the guidance of the Department of Fish and Game who may review impacts and set new, more or less restrictive standards, for resource protection if needed subject to Executive Director approval; (3) a defined point at which landscape watering must be discontinued to be determined in consultation with the Department of Fish and Game, subject to the review and approval of the Executive Director; (4) agreement that the Coastal Commission or the Executive Director as appropriate has reviewed and approval authority over revisions to the operational plan.

FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Project description and background.

In October 1982, the Commission approved 3-82-171 Ventana Inn expansion of 19 inn units, 15 units of staff housing and ancillary improvements. (See Exhibit 2, Commission Conditions, attached.) The permittee has constructed the 15 units of staff housing and is requesting an amendment for portions of the remaining project since "additional study, design planning and experience since the time of the original submission have suggested the desirability of these proposed changes." In addition, subsequent to Commission review of the project, the Land Use Plan for the Big Sur Coast segment of Monterey County's Local Coastal Program was conditionally approved

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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by the Commission in January 1986 and adopted by Monterey County in March 1986. The permittee believes the new and revised LUP, particularly as it relates to water supply and management, needs to be reviewed against the conditional requirements of the permit.

The amendment request includes: (1) the addition of linen storage room (448 sq.ft.), reservations room (312 sq.ft.), reading/breakfast room (774 sq.ft.) to existing buildings; (2) minor resiting of the 19 inn units and the addition of a reading/breakfast room to one; (3) restaurant expansion: add entry area, 30-seat dining area, move bar-lounge to replace portion of existing store; (4) the deletion of the picnic area as such and replacement with an equivalent public benefit; (5) modifications of the water management plan condition; (6) minor lot line adjustment; (7) modification to campsite conditions.

2. Revised Site Plan/ Building Additions

A revised site plan for the 19 inn units and building additions is attached as Exhibit 3. The modification combines two inn units previously remotely located near the inn restaurant with the other new units located in the meadow area. The proposed resiting would result in 5 new buildings (6, 5, 4, 2, 1 units each) and the addition of a single unit to an existing 4 unit building in contrast to a more massive 9 unit building previously approved. The permittee believes the organization is more desirable for a small inn environment. According to the permittee the modification of the building siting will not affect waste disposal leach field locations or capacity, will reduce grading since buildings are moved back from slopes, and will not affect visual resources (design is consistent with those previously approved). In addition, conditions of the current permit require soils engineering reports and Regional Water Quality Control Board approval of the wastewater disposal system.

The proposed addition of a linen storage room and a reservations room would have no significant impacts. The proposed addition of the two reading/breakfast lounges raises the issue of the use of these additions. The Big Sur Coast Land Use Plan for Monterey County approved in December 1984 limits restaurant/bar densities to prevent scenic, access, and water resource impacts. According to the permittee the breakfast reading rooms will be confined to inn patrons' use, are not intended to replace or supplement the restaurant since only minimal preparation and storage of foods (coffee, continental style breakfasts) is proposed. As conditioned to strictly limit the use of the proposed lounges, the development would not alter the intensity of use of the facility.

Therefore, as conditioned, the proposed development is consistent with Section 30250(a) of the Coastal Act which limits development to developed areas able to accommodate it and to areas with adequate public services where it will not have significant adverse impacts on coastal resources; and with the access policies of the Coastal Act.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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3. Restaurant Expansion

- The permittee proposes to expand the Ventana Inn Restaurant by converting a portion (approximately 700 sq.ft.) of the existing store to a bar, using the existing bar as a service bar, adding an approximate 600 sq. ft. dining area to the restaurant and an approximate 700 sq. ft. entry/waiting area. The total number of seats indicated on the plan is 140. (See Exhibit 5.)

According to the permittee "the addition of 19 more guest rooms requires some additional seating capacity in the restaurant for dinner. Presently when the inn is fully occupied (which is most of the time), inn guests are urged to make dinner reservations at the time of their room reservation in order to be accommodated. It is more critical during the summer when the days are longer and fewer people wish to dine early. There are presently 78 seats in the restaurant. The proposed addition will add a net of 24 seats. When there are a large number of couples wishing to dine along, it is frequently not feasible to make practical utilization of all these seats..."

The Big Sur Coast Land Use Plan Development policy 5.4.3.c.7 provides:

...Inns shall provide at least one parking space per room. Free-standing restaurants (not part of an inn) shall provide at least one space per four seats or per 100 sq.ft. of both open and enclosed dining area, whichever is greater. In addition, adequate and separate employee parking shall be provided.

New free-standing restaurant development shall be limited to the Rural Community Centers and the sites specified in Plan policy 5.4.3.E.1. The maximum size for such new restaurant structures shall be that amount of space needed for a 120-seat enclosed dining room facility. Elsewhere, restaurants shall not be larger than required to service the maximum size inn allowed on the parcel (generally, at the ratio of two seats per inn unit). Expansion of existing restaurant buildings shall be limited in scale to that which is in character with Big Sur, not to exceed a 10% expansion in area or an area sufficient for 120 dining room seats, whichever is greater..."

The LUP provides that existing restaurants may be expanded by 10% in floor area or an area sufficient for 120 seats whichever is greater. The existing dining floor area is about 5600 sq.ft., the proposed expansion is approximately 600 sq.ft., a 10.7% increase.

Under the Uniform Building Code 15 sq.ft. is needed for each restaurant seat. In this case 37 additional seats could be provided in the expansion area. The staff review of site densities under

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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3-82-171 showed there to be 103 restaurant/bar seats at the Ventana Inn. The largest number of seats that appear to be permissible under the LUP would be 140 seats. Though the proposed expansion into the store area technically is a floor area expansion, since the building exists no additional visual impacts will occur and seating is being moved rather than increased.

Ventana also proposes to pave and mark the two lower restaurant parking lots to make efficient use of area and increase parking. These lots are now utilized for employee parking as well as for guest parking, predominantly from visitors who drive down from the Monterey Peninsula for lunch. An existing footpath from the first parking lot will be restored and improved. Restaurant parking demand from guests in the additional 19 units should be minimal. There is now a lighted level path connecting the inn and the restaurant which has proven very popular with guests. Also the inn will provide shuttle service to and from the restaurant for inn guests, encouraging such guests to leave their car parked at the inn.

Therefore, as conditioned to require a limit on seating and submittal of final parking plans, the proposed development is consistent with Section 30250(a) of the Coastal Act which limits development to developed areas able to accommodate it and to areas with adequate public services where it will not have significant adverse impacts on coastal resources; and with the access policies of the Coastal Act.

4. Lower-Cost Recreational Facilities

Section 30213 of the Coastal Act provides that lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. Section 30233 requires that upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible. Section 30210 provides that maximum public access be provided for all the public.

As approved, the permittee's project provided higher cost visitor facilities - inn units, and lower cost visitor facilities in the form of a public picnic area and 27 campsites or an equivalent benefit (19 as comparable to inn unit number and 8 to offset loss of campsites to be displaced by employee housing). The permittee is currently working closely with the State Department of Parks and Recreation to provide improvements to Andrew Molera State Park in Big Sur rather than campsites at Ventana. Since an "equivalent benefit" is already allowed under permit conditions, no amendment is required for this item.

The permittee also requests a modification to the picnic area proposal to delete restrooms and picnic tables. The site would be landscaped and unpaved or crushed rock parking provided for use for public viewing and as a parking area for hikers and backpackers of

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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the area. According to the permittee Monterey County requires full service restrooms for a picnic area. The cost for maintenance and in water use would be prohibitive according to the permittee. The area (Cadillac Flats) is now used as a staging area for fire fighting as needed; this use would remain available with the minimal proposed improvements. As an alternative to the restroom/picnic area, the permittee will contribute the cost of the improvements to the State Parks. He will also provide map displays and access signs for the public. These alternatives are acceptable equivalents to the original proposal.

Therefore, as conditioned, the proposed amendment to delete the picnic area but provide equivalent alternative low cost public recreational/access benefits is consistent with the public recreation and access policies of the Coastal Act.

5. Lot Line Adjustment

The amendment request adjusts boundaries between a 160 acre parcel and a 10 acre parcel, both owned by Ventana (Exhibit 6 attached). Currently the 10 acre parcel contains a residence and several of the Ventana campsites. The adjustment locates the campsites on the 160 acre parcel with the rest of the campground and transfers an equivalent area (within a scenic easement) to the parcel with the residence. The adjustment does not create new building sites or alter the density potential of the area; and, therefore, conforms to Coastal Act policies which protect coastal resources from the impacts of overuse.

6. Water Resources

Section 30231 of the Coastal Act protects coastal marine resources and Section 30250(a) requires that new development have adequate public services and not contribute individually or cumulatively impacts on coastal resources.

Post Creek Watershed

The findings for 3-82-171 (Substantial File Document, available upon request) provided a detailed analysis of the water use and supply situation for Ventana Inn from the data available at that time. The facility is located in the Post Creek Watershed, tributary to the Big Sur River. It is a small watershed (1.36 sq.mi.) and Post Creek and the Big Sur River itself provide the only significant steelhead habitat in the Big Sur watershed. Seasonal variations in streamflow have important impact on stream biota. The Post Creek watershed has a history of water supply problems; water diversions in the watershed represent a near total commitment of all available water within the driest part of the year. During the drought of 1976 only 12.1 gpm flowed into the Big Sur River from Post Creek. The Department of Fish and Game determined that a minimum of 60 gpm flow throughout the steelhead spawning area (900 feet of the lower reaches of the creek) is needed for habitat protection.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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Draft Land Use Plan

The Draft Big Sur Coast Local Coastal Program Land Use Plan (used for analysis of the project) identified the protection of stream flows and water quality as a basic prerequisite to the protection of all other natural systems. Adequate water must be "retained" in the stream system to provide for the maintenance of the natural community of fish, wildlife and vegetation during the driest expected year.(3.4.1 Key Policy). To achieve this, comprehensive water management would be necessary to assure sufficient water for competing uses with sufficient reservation to protect habitat.

Specific policies prohibited use of groundwater sources and transfer of water between watershed; gave special protection to anadromous fish streams; did not allow intensification of water use in Watershed Restoration Areas, i.e. Post Creek watershed, without demonstrating environmental acceptability of cumulative impacts; and, for Post Creek allowed development with the provision of a water management plan which established levels of water withdrawal which could occur consistent with the basic requirements of protection and enhancement of the stream's natural resources; additionally, land use development activities are not permitted that have the effect of diminishing surface flows in coastal streams to levels that will result in loss of plant or wildlife habitat.

Adopted Big Sur Coast Land Use Plan

Subsequent to the approval of permit 3-82-171 the Commission approved with modifications (January 1986) the Big Sur LUP. The previous, unadopted LUP had, based on earlier work and background reports, cautioned the County to minimize reliance on groundwater resources; and the water resource policies had, therefore, advocated stream and spring diversions rather than wells as a water source. In contrast, newer information indicated that in general the low intensity of future development in Big Sur in comparison to its relatively high rainfall totals can be expected to maintain a positive groundwater recharge rate. Therefore, the LUP policies as approved by the Commission required the avoidance of diversion of surface water sources and emphasize the use of groundwater wells. These modifications were adopted by Monterey County in March 1986.

The adopted policies require:

3.4.3.B-6 "Priority for Wells Over Surface Water Diversions: Where groundwater is available on the site, developments for the purpose of diverting surface water sources -- perennial streams and springs that feed perennial streams--shall be avoided. Wells and infiltration fields located within or near a stream channel so as to tap stream sub-flow rather than groundwater will be considered as stream diversion structures for the purposes of this policy..."

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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3.4.3.B-7 "No substantial water use intensification (e.g., residential subdivision with potential to increase number of households; residential or inn development of more than one unit; restaurant, bar or other food service development or expansion; recreational vehicle campground; development for commercial irrigated agriculture shall proceed without specific verification that adequate water supplies are available, and that the proposed development will not adversely affect, cumulatively or individually, existing water supplies needed for the maintenance of riparian vegetation and anadromous fisheries, or the supply needed by existing users during the driest expected year. Such verification shall be supported by a report, prepared by a qualified professional hydrologist on the basis of well logs, stratigraphic profiles, and technical data as needed. The County shall consult with Department of Fish and Game as to the adequacy of the report before allowing water use intensification; and, if necessary, may at the applicant's expense engage the services of an appropriate independent expert to review the report as well. In the case of water withdrawals from streams and springs, water use shall be monitored and maximum use levels shall be consistent with instream flow requirements."

Permittee's Water Information Analysis for 3-82-171

The permittee's water sources were Post Creek and its tributary springs and a well located near its restaurant. The well failed, was redrilled, and estimated to provide 17,000 gpd. A hydrological study indicated this well did not tap Post Creek surface supplies. The permittee prepared a watershed study that analyzed water supply (average 37,930 gpd; drought 36,200 gpd) and demand for the overall watershed (current 37,500 gpd; buildout 84,000 gpd) and Ventana's own water supply and use and its relationship to stream flow. Ventana found that (a) total water consumption for the expanded inn would be 32,000 gpd (22.2 gpm); current use was 25,000 gpd; (b) on-site water sources were sufficient to supply the Inn's needs with adequate water remaining for the natural system except in severe dry conditions; (c) Strict conservation measures including a reduction in water consumption and use of ground water could assure the minimum stream flow of 60 gpm established by the Department of Fish and Game as needed to protect fishery resources during most dry periods.

The permittee acknowledged potential drought year supply problems and recommended: "that Monterey County and the Coastal Commission should require all applicants for development permits to adopt water conservation programs, including: 1) installing of low-flush toilets, shower restrictors and restrictions on non-native landscaping; 2) require use of grey water systems for landscape irrigation when acceptable by Monterey County Health Department; 3) public education regarding water use; 4) special conditions

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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regarding operations during a severe drought, including Ventana Inn's proposal to install a pump system in the lower reaches of Post Creek which will deliver water from the Big Sur River to the steelhead spawning grounds; and 5) all applications for new developments should be required to implement a conjunctive water use program during drought years. During normal rainfall years there appears to be no need to impose water use restrictions other than normal water conservation practices, plus monitoring of water consumption. During drought years strict water conservation programs, conjunctive use programs, habitat protection proposals and as a last resort, closing of visitor serving facilities should be required of property owners."

Commission Conditions Applied to 3-82-171 and Permittee's Requested Amendment

The conditions applied to the Ventana expansion permit considered many of the applicant's recommendations. However, because the Post Creek watershed was an acknowledged water short area with an anadromous fisheries resource and since the Land Use Plan policies prohibited use of groundwater, the intensification of water use was to be permitted based only on conditions restricting use of the surface flows to zero after the stream fell to a level (60 gpm as determined by the Department of Fish and Game) that would threaten the survival of the habitat.

Condition 6.a. required collection of data on stream flows and Ventana water use.

Condition 6. b. Conservation Plan for Resource Protection required:

(1) When Post Creek stream flow drops to 112 gpm as measured at Station 1 (Pfeiffer Big Sur State Park), permittee shall commence and incrementally effect additional water conservation measures which shall correlate water use with stream flow so that before surface flow at Station 1 is reduced to 60 gpm, all diversions under permittee's control (excepting obligatory supply to offsite residential structures) shall cease and permittee will rely solely on groundwater source (i.e., restaurant well). The water conservation measures and correlated reduction in use shall be submitted as part of this plan.

Results of Data Collection

Following permit approval the permittee began a monitoring program. The permittee submitted a Water Resource Management Plan (April 1985) and a Water Resources Verification Report (David Keith Todd, Consulting Engineers, Inc., April 1985) which detailed monitoring and water supply information to that date. Subsequently, after an additional year of monitoring a final Water Resources Operational

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Plan (March 1986) was submitted. The reports conclude there is ample water supply for Ventana expansion and the water demand will have minimal impact on neighbors and the environment. Since the approval of the LUP reduced "Rural Community Center" designations in the watershed, the permittee concluded there will be no additional inn units in the area. (Staff concludes that areas of Rural Community Center designations do remain but optional sources of water are available to them.) The permittee revised actual and potential demand estimates for the watershed to 47,275 gpd summer current (was 37,750) and 62,275 gpd at buildout (was 84,000). The Ventana Inn use was 31,275 gpd (at capacity); its currently projected buildout use is 38,880 gpd; (Ventana previous projection 32,000; Commission staff previous projection 36,113).

In monitoring Post Creek flows Ventana found that at Station 1 (Exhibit 7, attached) in the lower reaches of Post Creek flows were lower during the summer months than in the upper reaches. This is accounted for by the underlying strata which is bedrock in the upper elevation and an alluvial plane of sand near the Big Sur River. According to the permittee adherence to condition 6.b. would have required the complete closure of the Inn from August through November of 1984 (a year when total rainfall was only modestly below normal). The restaurant well which was to be the major water source was not reliable and in any case was too close to the waste disposal system to assure water quality and was abandoned at the direction of Monterey County. A replacement well installed near the campground is 150 feet deep and separated from surface subflows by rock has a sustained yield of 7 gpm.

Hence, the permittee requests an amendment (see Exhibit 3, attached) to the permit conditions to institute a conjunctive use program to place maximum and primary dependence in summer months on groundwater sources: the campground well (7 gpm), well adjacent to water tanks (3 gpm), and a proposed third well (est. 7 gpm) to be drilled upstream from the campground well and in the same geologic strata. According to Dr. Todd's report abundant groundwater is available from aquifers that will not affect the Post Creek flow. Consultation with the Department of Fish and Game finds that for compliance with the Big Sur River Watershed Management Plan (incorporated by reference into the Big Sur Land Use Plan) that groundwater is the appropriate non-rainy season water source for the facility.

Surface Sources

In winter months well sources will recharge and primary dependence will be placed on surface sources with strict limitations on maximum use. The permittee proposes to use up to 27 gpm of Post Creek flows but never more than 25% of the measured flow at Ventana campground monitoring station. As a secondary source, the permittee requests the use of McCarty Springs, a major contributor to the lower reaches of Post Creek.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

In 1979 under Appeal #445-68 the State Commisison approved 16 of a requested 36 unit expansion requiring a Water Resource Management Plan with development of McCarty Springs and its use as a backup water source limiting to an amount that would not in anyway harm the natural vegetation below the spring. The Department of Fish and Game allowed Ventana 50% of the normal flows. In 1980 under Appeal #180-80 the State Commission overturned a regional commission approval of an additional 20 units concluding that "allowing additional water withdrawals from Post Creek or using McCarty Springs at this time would have adverse cumulative effects on water availability". Ventana developed the spring in 1983 based on the position that they were required to do so under the conditions of their previous coastal permit. However, the spring has not been used as a water source.

The permittee proposes a maximum allowable usage of 6 gpm (half of the lowest flow recorded in the last two years), not to exceed 50% of the total flow at any time. Dr. Todd's Water Resource Verification study finds that McCarty Springs is a remarkably constant water source - measurement during the drought in October 1977 was 12 gpm; measurement in a non-drought year, October 1984, was 14.4 gpm - and it is likely that the spring drains a large underground storage volume.

Other Measures

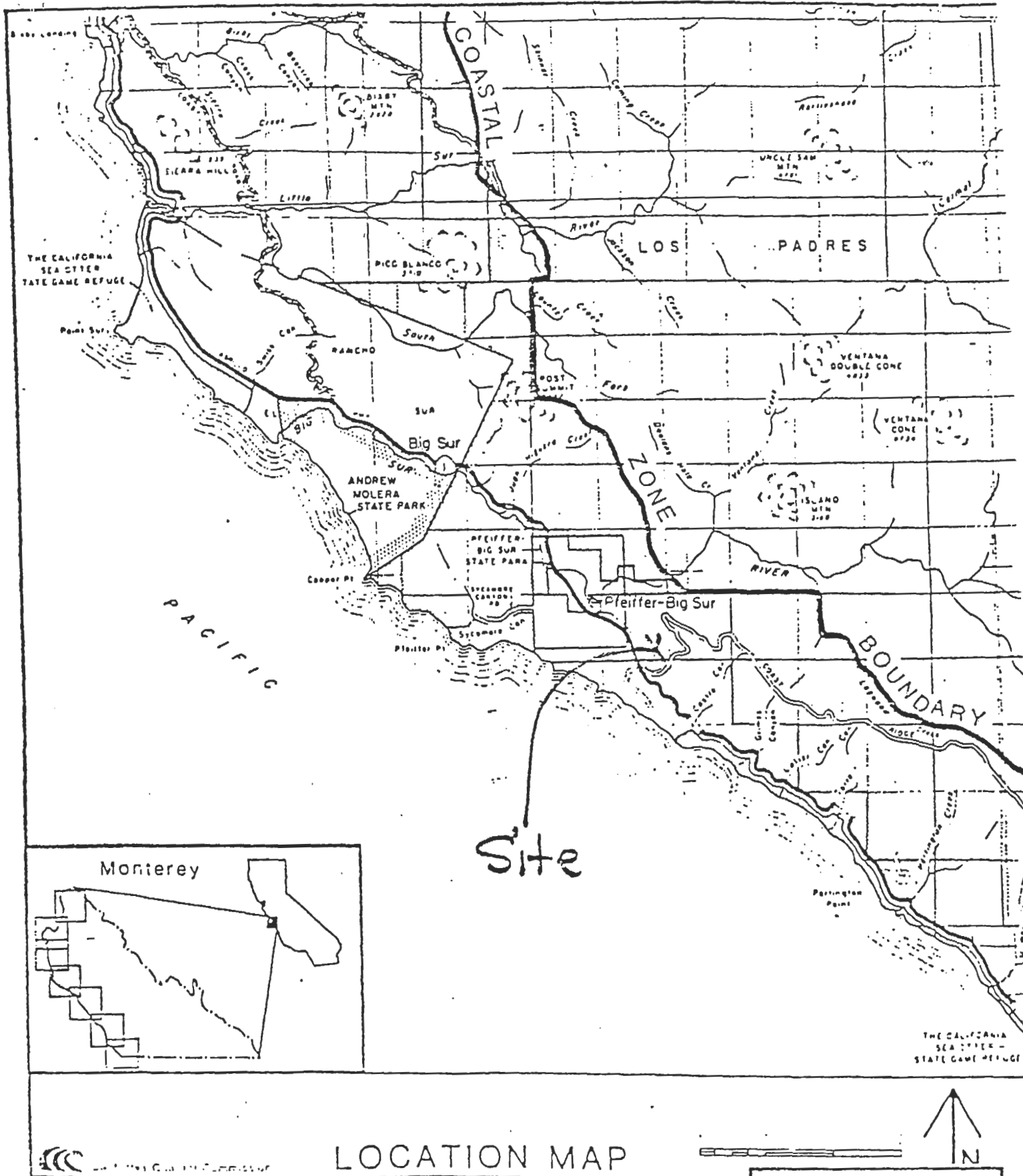
In addition, the permittee proposes a monitoring program which continues its current water source and usage data collection and adds shallow monitoring wells along the creek to determine groundwater levels and slopes, and yearly or as needed professional surveys of flowing water, moisture and status of riparian vegetation. The monitoring will be accompanied by annual reporting and options for the revision of the operational plan on a mutually agreed basis. Water conservation practices and education will be continued and landscape irrigation will be curtailed during drought periods. The steelhead spawning ground enhancement plan that will pump Big Sur River water to the lower reach of Post Creek "as required" to maintain a minimum flow of 60 gpm over the beds will be implemented.

The Water Resources Operational Plan for Ventana Inn provides for water resource protection as it builds the data base necessary to understand the watershed. Though the plan allows for some use of surface flows, the overall effect will be a reduction in use of surface sources during the season of low flows and is generally consistent with the intent of the Land Use Plan and Coastal Act policies which protect water resources and environmentally sensitive habitats. However, conditions are needed to clarify particular aspects of the plan including (1) the requirement that the use of McCarty Springs be approved and accompanied by a monitoring program

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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County of Monterey

3-82-171

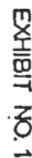
Ventana

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| EXHIBIT NO. 1a. |
| APPLICATION NO. 3-82-171A VENTANA |
| RECEIVED 1/11/2011 |

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC),

CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)



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CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT
701 OCEAN STREET, ROOM 310
SANTA CRUZ, CA 95060
(408) 426-7390 ATSS: 8-529-2304

FILED: 7/7/82
49th DAY: 8/25/82 (time waived)
180th DAY: 1/5/83
STAFF REPORT: 9/20/82
HEARING DATE: 10/13/82
STAFF: Joy Chase/ja/lt/cw

ADOPTED

REGULAR CALENDAR

PROJECT DESCRIPTION

APPLICANT: Ventana Inn, Inc.

PERMIT NO: 3-82-171

PROJECT LOCATION: Approximately 3½ miles south of Big Sur Village,
Big Sur area of Monterey County.

PROJECT DESCRIPTION: Construct 19 inn units, swimming pool, bath house,
restaurant, kitchen addition, picnic area, 15 employee housing units,
recreation building, ancilliary trail, parking, and septic systems; remodel
Post Homestead into store and staff apartment; convert 15 campsites to tent
cabins; pave portion of Coast Ridge Road.

LOT AREA: +170 acres

ZONING: Scenic Conservation 1 unit/acre

BLDG. COVERAGE: New: 20,500 sq. ft.

PLAN DESIGNATION: Rural Community Center;
Watershed and Scenic Conservation

PAVEMENT COVERAGE: New: 31,000
sq. ft.

PROJECT DENSITY: 1 unit/.91 acres (59 Inn,
34 staff, 92 campsites; 1 SFD)

LANDSCAPE COVERAGE: New: 3,000
sq. ft.

HEIGHT ABV. FIN. GRADE: Varies

LOCAL APPROVALS RECEIVED: Use Permit #2605 (1/11/78) - amendment (11/6/81);
Use Permit #ZA-4896 (4/16/82); Use Permit #2869 (5/21/81).

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit files P-78-396, Appeal 445-78 and
amendments; P-80-125; Appeal 180-80; 3-82-36. EIR, Sept. 1977;

McCarty Springs EIR, July 1979; Water Management Plan, July 1980;

Post Creek Watershed Study, March 1982; Monterey County Big Sur Land
Use Plan as approved by the Commission, September 1981.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-13-RO-07 (Ventana Investors V, LLC)

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EXHIBIT NO. 2
3-82-171

RECOMMENDATION

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

SUGGESTED CONDITIONSApproved Development

1.a. A Coastal Development permit is hereby granted for the restaurant kitchen expansion improvements.

1.b. A Coastal Development Permit is hereby granted for the employee housing subject to Regional Water Quality Control approval of the Wastewater disposal system.

1.c. This portion of the coastal development permit authorizes the construction of 19 inn units, 15 staff units, picnic area improvements and all related or required improvements pursuant to the following conditions, except that the staff recreational building is not permitted at this time.

1.d. Any future development on any of Ventana's parcels including new tent cabins, or closure of any facilities shall require an amendment request.

Construction Schedules

2. PRIOR TO ISSUANCE of permit, permittee shall submit to the Executive Director for review and approval a construction schedule and operation plan for all aspects of the development. The scheduling shall provide that:

a. No site grading 100 cubic yards or more, shall take place between November 15 and April 15. The contractor shall submit interim stabilization measures to minimize erosion during the construction period for all areas of disturbance.

b. Employee housing shall be constructed prior to or concurrent with the inn units but in any event shall be available for occupancy prior to occupancy of the inn units.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTEC Ventana Investors V, LLC)

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| EXHIBIT NO. 2 |
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| CONDITIONS OF |

Lower Cost Recreational Facilities and Trails

3. Within 180 days of the effective date of this permit, permittee shall provide a timetable for processing and within one year of the effective date of the permit shall have completed construction of 19 campsites or their equivalent.

This lower cost facility shall have received all necessary approvals and shall be consistent with the requirements of the Big Sur Coast Land Use Plan and shall be located in the Big Sur Valley area. Plans, including location, waste disposal, management responsibility, and construction timing, shall be submitted for Executive Director review and approval. The Executive Director may determine that a separate coastal permit is required for the facility if located off-site. However, no separate permit will be required if the facility constitutes a walk-in campground located on the 72 acre parcel.

4. Prior to occupancy of the approved inn units, the permittee shall provide:

a. Plans for the picnic area showing sanitation facilities including water and restrooms (may be chemical toilets). The plan shall be accompanied by Monterey County Planning and Health Department approval and an installation schedule.

b. Plans for eight campsites to replace those lost to employee housing (may be added to the 19 lower-cost units, condition #3 above).

5. PRIOR TO ISSUANCE of permit, the Executive Director shall certify in writing that the following condition has been satisfied. The permittee shall execute and record a document or documents in a form and content approved by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, the following easements for public access and recreation:

a. A coastal lateral access pedestrian and equestrian easement the length of the permittee's properties from the northern property boundary to the southern property boundary. Except for minor modifications to avoid existing or permitted structures, such easement shall be 25 ft. minimum in width and shall be designed to connect Pfeiffer-Big Sur State Park to the proposed Ventana picnic area and Coast Ridge Road in a manner which avoids exposure of pedestrians to traffic on State Highway Route 1. Wherever physically feasible, the easement shall also be designed to allow trail location on a separate alignment where parallel to the Ventana campground/restaurant entrance road(s), and to allow connection with future coastal lateral access easement, if any, which may be located on lands adjacent to the southern-most boundary of permittee's southernmost parcel.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTC Ventana Investors V, LLC)

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| EXHIBIT NO. 2 |
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| CONDITIONS OF 3-82-171 |

b. A pedestrian and equestrian easement on Coast Ridge Road at all locations where such road is located in whole or in part within the permittee's parcels. In lieu of executing a new easement, permittee may submit any existing U.S. Forest Service easement or easements prepared to satisfy County of Monterey permit conditions, provided that the Executive Director determines that such submittal carries out the intent to provide public access in an equivalently effective manner. The location of these easements shall be consistent with the approved LUP and the Commission's/Conservancy "Standards and Recommendations for Coastal Access".

Such easements shall be free of prior liens or encumbrances except for tax liens. While the easements may be subject to reasonable conditions to provide for the operation and maintenance of a pedestrian/equestrian trail, the easement shall provide that no signs or barriers shall be erected or retained which would cause the visitor to believe the trail(s) to be closed to public use (an exception for extreme fire danger or other officially declared emergency should be indicated).

The offer shall run with the land in favor of the people of the State of California binding successors and assigns of the permittee and future landowners. The offer of dedication shall be irrevocable for a period of 25 years, such period running from the date of recording.

Water Resources

6. PRIOR TO ISSUANCE of permit, permittee shall submit to the Executive Director for review and approval a comprehensive Project Water Monitoring and Management Plan which includes the following:

a. Data Collection Program

(1) Stream flows in Post Creek shall be monitored on a regular basis throughout the year at several locations in the Watershed in order to begin building a sound data base on water availability and current diversion. This will be accomplished through use of temporary or permanent weirs placed in the streambed at various locations established by a qualified hydrologist, State Department of Fish and Game and the Commission. But at a minimum, one weir shall be installed above the log jam at the north property line of permittee's northern parcel, hereafter called Station 1. Weirs shall be in place as early as possible in compliance with Department of Fish and Game authorizations. Stream flows shall be monitored and recorded on a regularly scheduled basis agreed upon by the permittee, the hydrologist, Department of Fish and Game, and the Commission.

(2) Water consumption by major use categories, i.e., campgrounds, employee housing, etc., shall be metered. Water use readings shall be recorded at the minimum, at the same time as the stream flow measurements.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-RO-07

Investors V, LLC)

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| EXHIBIT NO. 2 |
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| CONDITIONS OF 2-82-171 A |

(3) Water supply facilities shall be metered to provide quantitative data on individual sources, i.e. Post Creek, Campground Spring, Well, Redwood Springs, and data shall be recorded, at the minimum, at the same time as the stream flow measurements.

b. Conservation Plan for Resource Protection

(1) When Post Creek stream flow drops to 112 gpm as measured at Station 1, permittee shall commence and incrementally effect additional water conservation measures which shall correlate water use with stream flow so that before surface flow at Station 1 is reduced to 60 gpm, all diversions under permittee's control (excepting obligatory supply to off-site residential structures) shall cease and permittee will rely solely on groundwater source (i.e. restaurant well). The water conservation measures and correlated reduction in use shall be submitted as part of this plan.

(2) All plumbing fixtures, new and old, for the full site shall be fitted with water conservation fixtures which restrict flow of water. Permittee shall submit an inventory of units and identify compliance features. In addition, for campground facilities, all showers and faucets shall be equipped with automatic shut-off devices to minimize waste from faucets being left on.

c. Fishery Resource Enhancement Program

Within one year of the effective date of this permit, and in accordance with the development plan submitted, permittee shall construct, maintain, and operate pipeline and pump from the Big Sur River to protect the steel-head spawning area of Post Creek in accordance with the recommendations of the Department of Fish and Game and in accord with any requirements of the California Department of Parks and Recreation. Unless otherwise designated by the Department of Fish and Game, system capacity shall be adequate to provide a sustained flow of at least 60 gallons per minute over the spawning bed. Permittee shall expeditiously pursue the processing of necessary permits and authorizations from these agencies and shall regularly apprise the Commission of their progress.

d. Permittee shall record a deed restriction agreeing to permanently follow this monitoring and management plan.

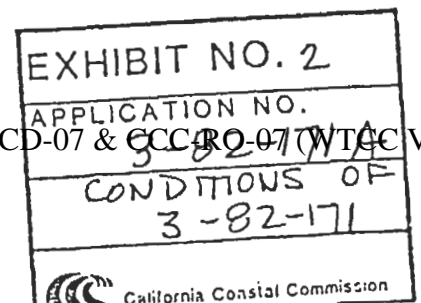
e. Post Creek Watershed Management Plan

Permittee shall record a deed restriction agreeing to cooperate and participate in the Post Creek Watershed Management Plan formation and implementation as finally developed under the Local Coastal Program.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-13-RO-07 (WTA) Ventana Investors V, LLC)

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Scenic Resources

7. PRIOR TO ISSUANCE OF PERMIT, permittee shall submit a proposal for modification of the existing scenic/open space easement as may be necessary for the protection of scenic resources on the permittee's property, to provide for the protection of the viewshed as seen from State Highway Route 1. Such modified easement shall be free of prior liens or encumbrances, except for tax liens. Permittee shall submit for Executive Director, Attorney General, and Grantee review and approval, the terms, conditions and consent of grantee for the modified easement, prior to recording. The modified easement shall be recorded with the County Recorder prior to occupancy of the inn units.

The modified easement shall include provisions to prohibit grading and other development; to prevent disturbance of native trees, groundcover and wildlife; to prevent damage by excess concentrations of livestock; and to provide for maintenance needs. Exceptions may be included for any development sites hidden by natural land forms or native vegetation; for further improvements along the Highway 1 frontage from Post Homestead through the old entrance road location; and for any developments constructed pursuant to this or prior coastal development permits.

An alternative approach (such as recordation of deed restrictions or covenants) insuring with equivalent effectiveness the protection of the public interest in maintaining undamaged scenic vistas as seen from State Highway Route 1, may be accepted in lieu of a scenic easement, subject to prior review and approval by the Executive Director.


8. Within 180 days of permit issuance, permittee shall submit for Executive Director review and approval landscaping plans emphasizing natural and drought resistant species and showing maximum feasible screening for those improvements potentially visible from State Highway Route 1 (parking lot, crib wall). Permittee shall not install new exterior lighting in any location where the light source is directly visible from State Highway Route 1.

9. Prior to surfacing of lower Coast Ridge Road, permittee shall submit for review by the Executive Director an evaluation of alternative techniques for effectively stabilizing the road surface. Emphasis shall be placed on methods which would harmonize with the rural character of the area. Final selection of surfacing method and materials shall be subject to approval by the Executive Director. Safety signing shall also be provided subject to Executive Director review and approval.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC); CCC-13-CD-07 & CCC-13-RO-07 (WTOC Ventana Investors V, LLC)

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| 3047 WTOC |
|  California Coastal Commission |

Other Requirements and Agency Approvals

10. PRIOR TO ISSUANCE of permit, permittee shall submit for review and approval of the Executive Director:

- a. Evidence that the Regional Water Quality Control Board has approved the wastewater disposal system as presented to the Commission. Any RWQCB recommendations that alter the current system proposal shall be submitted for the review and approval of the Executive Director.
- b. Evidence that the Monterey County fire safety requirements for the inn units shall be applied to the staff housing units as well.
- c. A revised soils engineering report indicating structural and geologic stability for revised development locations of the new inn units and surrounding area. Permittee shall submit verification that Monterey County Building Department approves the revised locations.
- d. Signing program including all elements of the development. The signing shall be in keeping with the rural character of the area.
- e. A deed restriction providing that the employee housing units may not be converted to other uses and may be occupied by employees of Ventana Inn, Inc., and their families, only. Subsequently the permittee shall record said document.


Standard Conditions

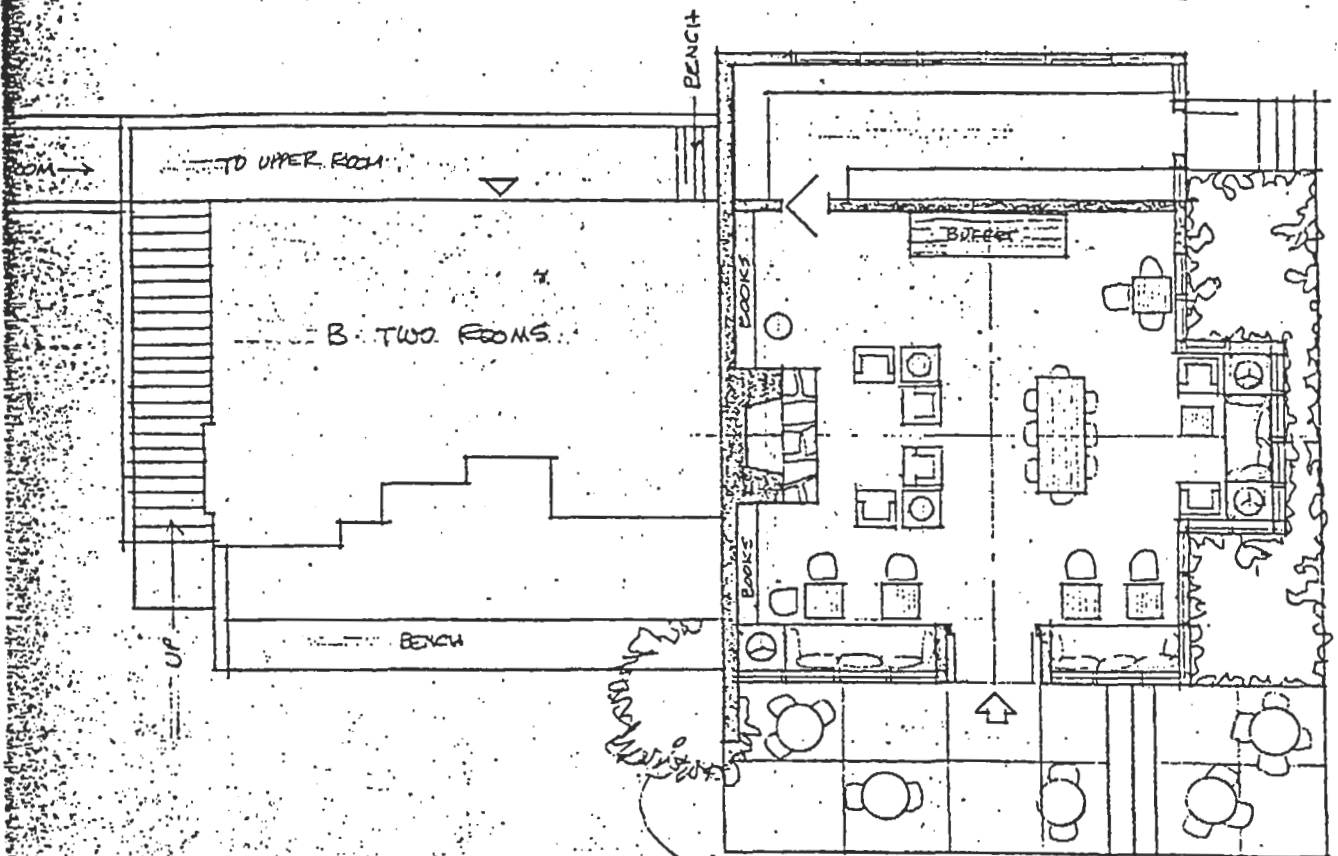
See Exhibit A.

Exhibit 4

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Neraida LLC);
CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana Investors V, LLC)

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PRIVACY PLANTING

READING/BREAKFAST ROOM FLOOR PLAN

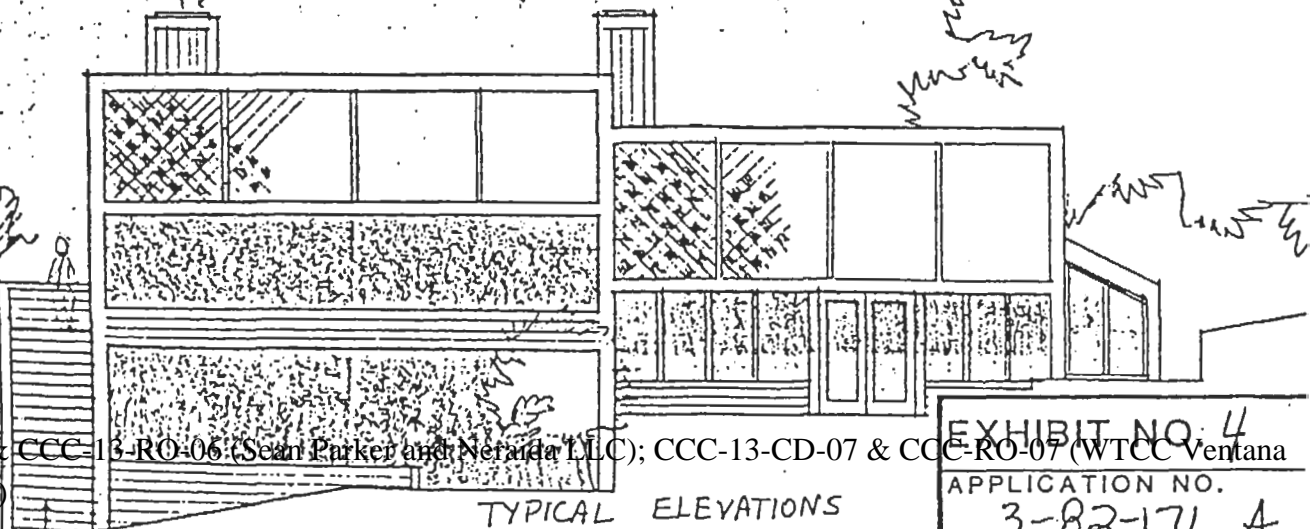
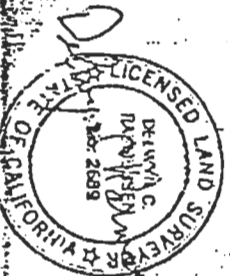
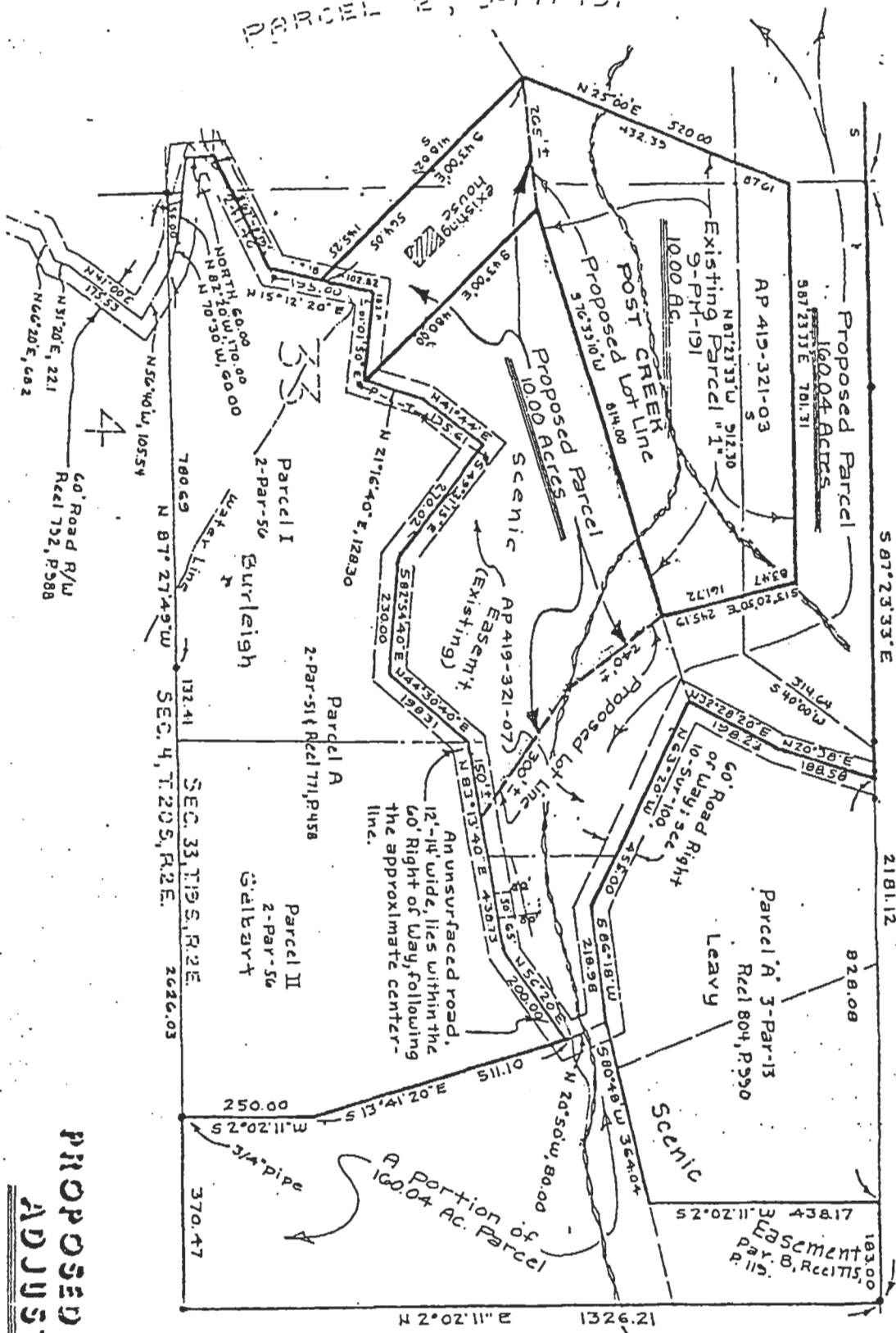


EXHIBIT NO. 4
APPLICATION NO.
3-82-171 A

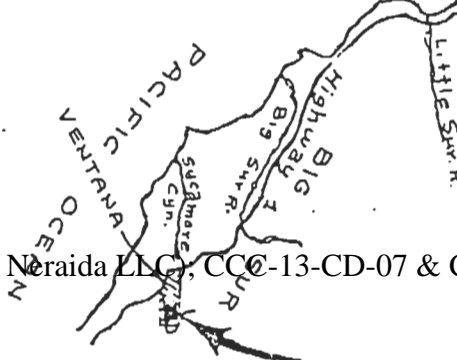
PARCEL 2, 9-PM-191



FOR: VENTANA INN, INC. (Owner)
 BETWEEN PARCELS 1 AND 2
 AS SHOWN ON VOL. 9 OF
 PARCEL MAPS AT PAGE 191,
 MONTEREY COUNTY, CA.
 PREPARED BY:
 RAMUSSEN LAND SURVEYING, INC.
 704 Forest Ave., Pacific Grove, Ca 93955
 SCALE: 1" = 200'

PROPOSED LOT LINE ADJUSTMENT

LOCATION SKETCH



| | |
|-------------------------------|--|
| EXHIBIT NO. 6 | |
| APPLICATION NO. | |
| 3-82-171A | |
| ADJUSTMENT | |
| California Coastal Commission | |

UNPERMITTED DEVELOPMENT

GRADING



Exhibit 6
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Nerai-
da LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC Ventana
Investors V, LLC)
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UNPERMITTED DEVELOPMENT

ARTIFICIAL POND AND STONE BRIDGE



Exhibit 7
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07
(WTCC Ventana Investors V, LLC)

UNPERMITTED DEVELOPMENT

ROCK WALLS, STAIRWAYS, POTTED TREES, SEATING, GENERATORS ETC.



Exhibit 8

CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Ne-
raida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC
Ventana Investors V, LLC)

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UNPERMITTED DEVELOPMENT

ELEVATED PLATFORM ADJACENT TO POST CREEK



Exhibit 9
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07
(WTCC Ventana Investors V, LLC)
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UNPERMITTED DEVELOPMENT

DEVELOPMENT ABUTTING REDWOOD TREE



Exhibit 10
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07
(WTCC Ventana Investors V, LLC)
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PRIOR TO UNPERMITTED CONSTRUCTION



Exhibit 11(a)
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and
Neraida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC
Ventana Investors V, LLC)
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DURING UNPERMITTED CONSTRUCTION



Exhibit 11(b)
CCC-13-CD-06 & CCC-13-RO-06 (Sean Parker and Ne-
raida LLC); CCC-13-CD-07 & CCC-RO-07 (WTCC
Ventana Investors V, LLC)
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