

2020061781

Stephen L. Vagnini
Monterey County Clerk-Recorder

10/28/2020 01:11 PM

Recorded at the request of:
MONTEREY COUNTY RESOURCE MAN

Titles: 1 Pages: 48

Fees: \$163.00
Taxes: \$0.00
AMT PAID: \$163.00



When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: ANNA QUENGA
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN190351
Resolution No.: 20-023
Richard D. MacDonald Family
Partnership, a California
Owner Name: Limited Partnership
Project Planner: ANNA QUENGA
APN: 243-331-003-000

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF \$ 0
[] computed on the consideration or full value of
property conveyed, OR
[] computed on the consideration or full value less
value of liens and/or encumbrances remaining at
time of sale,
[] unincorporated area; and
[X] Exempt from transfer tax,
Reason: Transfer to a governmental entity

Neil Hatten - Agent
Signature of Declarant or Agent

**CONSERVATION AND SCENIC EASEMENT DEED
(COASTAL)**

THIS DEED made this 7th day of October 2020 by and between
Richard D. MacDonald Family Partnership, a California Limited Partnership as
Grantor, and the COUNTY OF MONTEREY, a political subdivision of the State of
California, as Grantee,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey
County, California (hereinafter the "Property"); and

WHEREAS, the Property of said Grantor has certain natural scenic beauty and
existing openness; and

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WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey
County, California (hereinafter the "Property"); and

WHEREAS, the Property of said Grantor has certain natural scenic beauty and
existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of the Property of the Grantor; and

WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

WHEREAS, in accordance with Condition 7 of Coastal Development Permit No. 3-84-140 approved on August 22, 1984 by the California Coastal Commission to allow development the Property (Exhibit A), an Irrevocable Offer and Dedication of Open-Space Easement and Declarations of Restrictions was made on September 21, 1984 by Edward Overton Messick & Elizabeth Burrough Messick (Exhibit D); and

WHEREAS, on September 6, 2005, the County of Monterey accepted the Irrevocable Offer to Dedicate the Open-Space Easement and Declarations of Restrictions executed by Edward Overton Messick and Elizabeth Burroughs Messick on September 21, 1984, and recorded on October 19, 1984, as Instrument No. G 47897, Reel 1779, Pages 50-71 of the Official Records in the Office of the Recorder, County of Monterey (Monterey County Recorder Document No. 2005092766) (Exhibit E); and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the County for a permit to undertake development as defined in the LCP; and

WHEREAS, after-the-fact **Combined Development Permit** consisting of **Coastal Development Permits** (File Number **PLN190351**) (hereinafter referred to as the "Permit") was granted on **June 11, 2020** by the Monterey County **Zoning Administrator** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **20-023**. That resolution is attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

Condition No. No. 5: "Prior to expiration of this Combined Development Permit, the existing conservation and scenic easement conveyed over portions of the subject property to the County of Monterey (Monterey County Recorder Document No. 2005092766) shall be amended and improvements on the property shall conform to the easement restrictions. The boundaries of the easement shall be realigned to remove portions of the existing asphalt parking/turnaround, on the eastern portion of the

property, out of the easement area. The wooded stairs located within the easement area on the western portion of the property shall be removed. A Subordination Agreement shall be required, where necessary. The amendment to the easement boundaries shall be developed in consultation with certified professional. Removal of the stairs shall be done with consultation of a qualified biologist.” and;

WHEREAS, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Grantor upon condition (hereinafter the “Condition”) described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter “easement”) over the Property as shown in Exhibit “C” attached hereto and hereby incorporated by reference, and agree to restrict development on and use of the Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this easement; and

WHEREAS, the County has placed the Condition on the permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed.

NOW, THEREFORE, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real

property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except as specified in section C.1 below.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, and public and private utilities, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made. Construction, alteration, relocation and maintenance requiring land disturbance shall occur in consultation with a qualified biologist and a qualified archaeologist, in accordance with policies set forth in the Big Sur Coast Land Use Plan and including, but not limited to, obtaining any necessary permits.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes and conditions of this easement:

1. Restoration of environmentally sensitive habitat areas, in consultation with a qualified biologist and a qualified archaeologist, and in accordance with policies set forth in the Big Sur Coast Land Use Plan and including, but not limited to, obtaining any necessary permits.

2. The right to maintain all existing private roads, bridges, trails and structures upon the Conservation and Scenic Easement Area.

3. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

4. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Fuel Management Plan approved with the Permit on file with the Monterey County Planning Department.

D. SUBJECT TO APPLICABLE LAWS. Land uses permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would

permit use of the Property contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the

purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

K. SEVERABILITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 7 day of October, 2020 at Monterey California.

Richard D. MacDonald Family Partnership, a California Limited Partnership

By: 
(Signature)

RICHARD D. MACDONALD
MANAGER
(Print or Type Name and Title)

By: _____ 
(Signature)

(Print or Type Name and Title)

NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

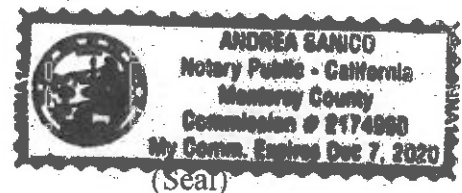
STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On October 7, 2020 before me, Andrea Sanico a Notary Public, personally appeared Richard P. MacDonald, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



(Seal)

Andrea Sanico

COMMISSION # 2174990

COMMISSION EXPIRES DEC. 7, 2020

JSB

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **June 11, 2020** from **Richard D. MacDonald Family Partnership, a California Limited Partnership** to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on OCTOBER 27, 2020, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: 10.27.2020

[Signature]
Chris Lopez AKA Christopher M. Lopez
 Chair, Monterey County Board of Supervisors

ATTEST:
 DATED: 10.27.2020

[Signature]
Valerie Ralph
 Clerk of Said Board

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

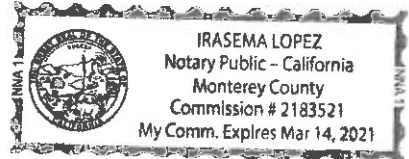
STATE OF CALIFORNIA)
) SS.
 COUNTY OF MONTEREY)

On October 27, 2020 before me Irasema Lopez, a Notary Public, personally appeared Christopher M. Lopez, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]



(Seal)

Document Form/Content Acceptable:
 Leslie J. Girard, County Counsel-Risk Manager

By: [Signature]

DATED: 10-13-20

Type/Print Name: Robert + I Brake - LLC, Deputy County Counsel

EXHIBIT A

the following described real property in the unincorporated area of the County of Monterey,
State of California

PARCEL I

LOT 3, AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED, MAP OF
"TRACT NO 513, CARMEL SUR", A SUBDIVISION IN VICTORINE RANCH IN RANCHO
SAN JOSEY SUR CHIQUITO", FILED APRIL 2, 1969 IN THE OFFICE OF THE COUNTY
RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA IN VOLUME
10 OF MAPS, "CITIES AND TOWNS", AT PAGE 6

PARCEL II

A NON-EXCLUSIVE RIGHT OF WAY FOR ROAD AND UTILITY PURPOSES OVER
AND ACROSS AURORA DEL MAR AS SAID ROAD IS SHOWN AND DESIGNATED ON
THE MAP HEREIN REFERRED TO

**Before the Zoning Administrator
in and for the County of Monterey, State of California**

In the matter of the application of:

RICHARD D MACDONALD FAMILY PARTNERSHIP (PLN190351)

RESOLUTION NO. 20-023

Resolution by the Monterey County Zoning Administrator:

1. Finding that the project involves the demolition of a single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301(1)(1) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
2. Approving an after-the-fact Combined Development Permit consisting of:
 - a. A Coastal Development Permit for the demolition of a single family dwelling (approximately 4,500 square feet). The building foundation and flatwork will remain; and
 - b. A Coastal Development Permit to allow development within 100-feet of environmentally sensitive habitat areas.

[PLN190351 – Richard D MacDonald Family Partnership, 30560 Aurora del Mar, Carmel, Bis Sur Coast Land Use Plan, Coastal Zone (Assessor’s Parcel Number: 243-331-003-000)]

The MACDONALD application (PLN190351) came on for a public hearing before the Monterey County Zoning Administrator on June 11, 2020. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) The project has been reviewed for consistency with the text, policies, and regulations in:
 - 1982 Monterey County General Plan (General Plan);
 - Big Sur Coast Land Use Plan (BSC LUP);
 - Monterey County Coastal Implementation Plan, Part 3 (CIP);
 - Monterey County Zoning Ordinance (Title 20);No conflicts were found to exist. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.
- b) **Allowed Use** – The single family, demolished without benefit of a coastal permit, was an allowed land use pursuant to Title 20 Section

20.16.040.A. As demonstrated in subsequent Evidence “d”, permits were obtained to legally establish the residence. Title 20 Section 20.70.120 states that the alteration of an existing single family dwelling located within 50 feet of a coastal bluff and development on properties between the sea and the first public road are not exempt from a Coastal Development Permit. As such, to abate the zoning violation on the property, this after-the-fact permit allows the demolition of the single family dwelling.

- c) Lot Legality. The subject parcel (1.10 acres), APN 243-331-003-000, is identified as Lot 3, located on a residential subdivision created through the Carmel Sur, Map of Tract No. 588. The recorded map can be found in Volume 10, Page 6 of Cities and Towns. Therefore, the County recognizes the subject parcel as a legal lot of record.
- d) Legal Nonconforming – Data from the Monterey County Assessor indicates the single family residence was established on the subject property in 1977. In 1984, the California Coastal Commission approved a Coastal Development Permit (Permit No. 3-84-140) for after-the-fact development consisting of conversion of the existing garage into living space, construction of a new garage and minimal vegetation removal and grading (approximately 200 cubic yards). In compliance with condition No. 7 of the permit, the property owners (Edward and Elizabeth Messick) made an Irrevocable Offer to Dedicate Open-Space Easement and Declarations of Restrictions on September 21, 1984 (Instrument No. G 47897, Reel 1779, Pages 50-71 of the Official Records in the Office of Recorder, County of Monterey). On September 6, 2005, the County of Monterey accepted the offer of the easement (Monterey County Recorder Document No. 2005092766). The single family dwelling, demolished without benefit of a coastal permit, was an allowed land use pursuant to Title 20 Section 20.16.040.A. However, flatwork and a concrete retaining wall to the north extends off the property and encroaches onto the adjacent property. In addition, stairways and concrete pads on the western portion of the property and a portion of the driveway turnaround and retaining walls on the eastern portion of the property are inconsistent with the easement restrictions. It is unclear when these improvements occurred, but the applicant has submitted evidence these may have pre-dated conveyance of the easement. As such, these improvements are considered legal non-conforming land uses. Since work did not occur in these areas, they may remain pursuant to Title 20 Section 20.68.020.
- e) Archaeological Resources – Monterey County Geographic Information System (GIS) data indicates the subject property has a high archaeological sensitivity. In addition, previous reports for the property indicate the potential for archaeological resources to be onsite and/or nearby. In accordance with BSC LUP Policy 3.11.1.4 and CIP Section 20.145.120.B.1.a, the application included an archaeological assessment (see Finding 2, Evidence “c”). The report assumes no impact since the development would be within an area already disturbed, and to the extent that subsequent development is restricted to that area, no further archaeological measures should be required. The project is for an after-the-fact Coastal Development

Permit for the demolition of a single family dwelling. Other than the abandonment of the septic tank, no additional work will occur. As demonstrated in Finding 3, Evidence “c”, activities to abandon the tank is limited to emptying the tank of effluent, popping holes on the bottom, and filling the tank with solid material. Existing access to the septic tank exists for maintenance. Therefore, abandonment will not require further ground disturbance.

- f) Biological Resources – Based on analysis for previous development permits and the site’s proximity to the Pacific Ocean, environmentally sensitive habitat areas (ESHA) are presumed on and near the site. In accordance with BSC LUP Policy 3.3.2.1 and CIP Section 20.145.040.B.1, a biological assessment (see Finding 2, Evidence “c”) was submitted with the application. The report identifies that the demolition occurred within the footprint of the single family dwelling only and there was no evidence of ESHA disturbance. As discussed in Finding 3, Evidence “c”, the septic tank will need to be abandoned. Existing access to the septic tank exists for maintenance; therefore, abandonment activities will not require ground disturbance. During review of the project, it was noted that a portion of the parking turnaround area and retaining walls on the eastern portion of the property and stairways and concrete pads leading to the ocean bluff were within a conservation easement area. Although this development was not part of the violation, staff requested the applicant explore it’s removal since it is inconsistent with the easement restrictions. The biologist noted that the turnaround and retaining walls appears to have been in place since the mid-eighties and their removal would serve no biological benefit as they would require grading to stabilize the slopes. The biologist also notes that the stairways and concrete pads, which were mortared to bedrock granite, predates establishment of the easement boundaries. Removal of the concrete pads would likely require a jackhammer and would offer no biological benefit. In fact, forceful breaking of the concrete would possibly degrade and destabilize the rock below it, hastening weathering and erosion. The biologist concludes that there is nothing biologically sensitive that these stairs and landing pads are impacting by remaining in place and there is no meaningful restoration of native ocean bluff scrub habitat that could be implemented that would be likely to survive on the exposed granite were the stairs to be removed. However, the report concludes that once the demolition permit is cleared and designs finalized for a new structure, the completion of a restoration and planting plan for the areas within the conservation easement could occur. To ensure property owners know of this, the project has been conditioned requiring recordation of a Notice of Report.
- g) Abatement of Violation – This after-the-fact Coastal Development Permit will abate the zoning violation on the subject property. See Finding 4 below.
- h) Public Access – As demonstrated in Finding 6, the development is consistent with public access policies of the BSC LUP.
- i) Based on the Land Use Advisory Committee procedure guidelines adopted by the Monterey County Board of Supervisors, the project

was referred to the Big Sur Coast LUAC. However, on May 30, 2017 an application for the demolition and rebuild of the single family dwelling was brought before the LUAC. No decision was made and the project was continued pending revised plans and approval by the Otter Cove HOA.

- j) Staff conducted a site inspection on April 25, 2017 and May 30, 2019 to verify that the project on the subject property conforms to the plans submitted.
- k) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in RMA-Planning File No. PLN190351.

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

EVIDENCE: a) The project includes minor improvements associated with an established residential use in a residential neighborhood.

b) The project was reviewed by RMA-Planning, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau and the Carmel Highlands Fire Protection District. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

c) Potential impacts to archaeological and biological resources were identified. The following reports have been prepared and submitted with the application:

- “Archaeological Assessment”, dated January 17, 2017 (Monterey County Document No. LIB170137), prepared by Gary S. Breschini, Ph. D., Salinas, CA.
- “Biological Assessment”, dated December 15, 2019 (Monterey County Document No. LIB200074), prepared by Pat Regan, Carmel Valley, CA.

The above-mentioned technical reports prepared by outside consultants demonstrate that there are no physical or environmental constraints indicating the site is not suitable for the proposed use. County staff has independently reviewed these reports and concurs with their conclusions.

- d) Based on the age of the home and the common Spanish-style architecture did not indicate that the structure warranted the need for a historical report.
- e) The application materials, reports submitted by the applicant, staff’s site visit, permit history and the minimal disruption of the site indicate that staff would have supported demolition of the single family dwelling had the applicant applied for the proper permits prior to completing the work.
- f) Staff conducted a site inspection on April 25, 2017 and May 30, 2019 to verify that the site is suitable for this use.
- g) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN190351.

3. **FINDING:** **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The project was reviewed by RMA-Planning, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau and the Carmel Highlands Fire Protection District. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are existing on the subject property. However, the project allows the after-the-fact demolition of a single family dwelling resulting in a vacant lot. Therefore, potable water service is not necessary.
 - c) Wastewater service to the property is not necessary since the single family dwelling has been demolished. In accordance with Monterey County Code Chapter 15.20.090 – Abandoned Sewage Disposal Facilities, septic tanks discontinued from use shall have the sewage removed therefrom and be completely filled with earth, gravel or concrete. In accordance with this chapter, the Environmental Health Bureau requires issuance of a permit to abandon prior to any work being performed.
 - d) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in RMA-Planning File No. PLN190351.
4. **FINDING:** **NO VIOLATIONS** – Approval of this after-the-fact Combined Development Permit will bring the subject property into compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance.
- EVIDENCE:**
- a) Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any other violations existing on subject property.
 - b) See Finding 2, Evidence “f”.
 - c) Pursuant to CIP Section 20.90.110, the Zoning Administrator is the appropriate authority to consider permits for the violation on the subject property.
 - d) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN190351.
5. **FINDING:** **CEQA (Exempt)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15301(I)(1) categorically exempts the demolition of one single family dwelling in non-urbanized areas. The subject property is located

within a 17-lot subdivision within unincorporated Monterey County and the project legalizes the demolition of a single family dwelling. The building foundation and flatwork remain onsite and is not proposed for removal as part of this permit. Therefore, the project qualifies for a Class 1 categorical exemption pursuant to the section above.

- b) The project does not meet the exceptions to the exemptions listed in CEQA Guidelines Section 15300.2. The demolition activities were limited to areas already disturbed areas. Biological and archaeological assessments were submitted as part of the application (see Finding 2, Evidence “c”). These reports gave no indication that the demolition resulted in environmental impacts. In addition, abandonment of the septic tank would not require ground disturbance (see Finding 1, Evidence “e” and “f”). Therefore, it is reasonable that the activity had no significant effect on the environment due to unusual circumstances. The subject property is located adjacent to Highway 1, a State scenic highway. Due to topography and existing vegetation, the site cannot be viewed for the roadway. No vegetation removal or grading occurred with the demolition. Therefore, the project does not result in damage to scenic resources. There is no indication that the structure demolished or the subject property qualifies as an historical resource or is located on a hazardous waste site. Further, it is not reasonably foreseeable that the project would result in a cumulative significant impact.
- c) No adverse environmental effects were identified during staff review of the development application.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190351.

6. **FINDING:**

PUBLIC ACCESS – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

EVIDENCE:

- a) Figure 2, Shoreline Access Plan, of the BSC LUP illustrates that the subject property is located in the Otter Cove Area, a Priority 1 – major access area. Permitting the after-the-fact demolition of the single family dwelling does not impact or change the existing conditions of the Otter Cove Area public access.
- b) No additional access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in CIP Section 20.145.150 can be demonstrated.
- c) Staff conducted a site inspection on April 25, 2017 and May 30, 2019.
- d) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN190351.

7. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** a) **Board of Supervisors** – Pursuant to Section 20.86.030 of Title 20, an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
- b) **Coastal Commission** – Pursuant to Section 20.86.080.A.1 of Title 20, the project is subject to appeal by/to the California Coastal Commission because the site is located between the sea and the first public road.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Finding that the project involves the demolition of a single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301(l)(1) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
2. Approving an after-the-fact Combined Development Permit consisting of:
 - a. A Coastal Development Permit for the demolition of a single family dwelling (approximately 4,500 square feet). The building foundation and flatwork will remain;
 - b. A Coastal Development Permit to allow development within 100-feet of environmentally sensitive habitat areas.

All of which are in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 11th day of June, 2020.



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON **JUN 16 2020**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **JUN 26 2020**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

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

NOTES

PLN190351 – MACDONALD

Page 7

Exhibit B

Page 7 of 12

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

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

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services offices in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN190351

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Coastal Development Permit (PLN190351) allows demolition of a single family dwelling, the after-the-fact, and partially abates violation No. 14CE000051. The property is located at 30560 Aurora del Mar, Carmel (Assessor's Parcel Number 243-331-003-000), Big Sur Coast Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Coastal Development Permit (Resolution Number 20-023) was approved by the Zoning Administrator for Assessor's Parcel Number 243-331-003-000 on June 11, 2020. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the RMA Chief of Planning prior to issuance of a building permit or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

3. PD003(B) - CULTURAL RESOURCES POSITIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: If archaeological resources or human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remain are discovered must be contacted to determine that no investigation of the cause of death is required.

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and RMA - Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendant.
- The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, Or

Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

1. The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission.
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(RMA - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities. Submit the letter to the Director of the RMA – Planning for approval.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Prior to Final, the Owner/Applicant, per the Archaeologist , shall submit a report or letter from the archaeologist summarizing their methods, findings, and recommendations if their services are needed during construction or if no resources were found.

4. PD016 - NOTICE OF REPORT

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

Prior to issuance of building permits, a notice shall be recorded with the Monterey County Recorder which states:

"A Biological Assessment (Library No. LIB***), was prepared by Pat Regan on December 15, 2019 and is on file in Monterey County RMA - Planning. All development shall be in accordance with this report."
(RMA - Planning)

**Compliance or
Monitoring
Action to be Performed:**

Prior to the issuance of building permits, the Owner/Applicant shall submit proof of recordation of this notice to RMA - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning.

5. PDSP001 - AMENDMENT AND COMPLIANCE - CONSERVATION AND SCENIC EASEMENT DEED (NON-STANDARD)

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

Prior to expiration of this Combined Development Permit, the existing conservation and scenic easement conveyed over portions of the subject property to the County of Monterey (Monterey County Recorder Document No. 2005092766) shall be amended and improvements on the property shall conform to the easement restrictions. The boundaries of the easement shall be realigned to remove portions of the existing asphalt parking/turnaround, on the eastern portion of the property, out of the easement area. The wooded stairs located within the easement area on the western portion of the property shall be removed. A Subordination Agreement shall be required, where necessary. The amendment to the easement boundaries shall be developed in consultation with certified professional. Removal of the stairs shall be done with consultation of a qualified biologist.

**Compliance or
Monitoring
Action to be Performed:**

Submit the amended conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Submit a demolition plan, prepared in consultation with a qualified biologist, for removal of the wooden stairs to RMA for review and approval. This work shall occur prior to expiration of this permit.

Prior to expiration of this permit, the Owner/Applicant shall record the deed and map showing the approved amended conservation and scenic easement area. Submit a copy of the recorded deed and map to RMA - Planning.

6. FLOODPLAIN NOTICE

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide a recorded floodplain notice for the subject parcel stating: "The property is located within or partially within a Special Flood Hazard Area and may be subject to building and/or land use restrictions." (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: The applicant shall submit a signed and notarized floodplain notice to RMA-Environmental Services for review and approval. The notice shall be recorded concurrently with the final map.

7. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

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

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

EXHIBIT " A "

SCENIC EASEMENTS LEGAL DESCRIPTION
30560 Aurora Del Mar, Monterey County PLN 19 0351

A Scenic Easement over that real property situate in the County of Monterey, State of California, being a portion of Lot 3 as shown on that certain map entitled, "Tract No. 588, Carmel Sur, a Subdivision in Victorino Ranch, in Rancho San Jose Y Sur Chiquito", filed April 2, 1969 in the Office of the County Recorder of the County of Monterey, State of California, in Volume 10 of Maps "Cities and Towns" at Page 6, being more particularly described as follows:

Easterly Scenic Easement:

Beginning at the northeasterly corner of said Lot 3 as shown on said map, thence from said Point of Beginning,

- 1) southeasterly along the northeasterly sideline of said Lot 3, 30.02 feet along the arc of a curve described from a radius point bearing N 74° 09' 00" E, 80.00 feet distant, through a central angle of 21° 30' 00"; thence,
- 2) southeasterly, along the northeasterly sideline of said Lot 3, 139.74 feet along the arc of a curve described from a radius point bearing S 52° 39' 00" W, 1,070.00 feet distant, through a central angle of 7° 28' 57"; thence,
- 3) leaving said northeasterly sideline of said Lot 3, S 68° 39' 13" W, 12.57 feet; thence,
- 4) westerly, 30.56 feet along the arc of a curve described from a radius point bearing N 21° 20' 47" W, 100.00 feet distant, through a central angle of 17° 30' 43"; thence,
- 5) non-tangentially, N 78° 14' 08" W, 20.12 feet; thence,
- 6) N 51° 34' 35" W, 7.02 feet; thence,
- 7) N 35° 41' 10" W, 17.44 feet; thence,
- 8) N 30° 07' 21" W, 58.94 feet; thence,
- 9) S 59° 52' 39" W, 28.77 feet; thence,
- 10) S 30° 07' 21" E, 59.87 feet; thence,
- 11) northwesterly, 76.13 feet along the arc of a curve described from a radius point bearing N 32° 34' 28" E, 150.00 feet distant, through a central angle of 29° 04' 53"; thence,
- 12) N 28° 20' 39" W, 17.25 feet; thence,
- 13) northwesterly, 30.76 feet along the arc of a curve described from a radius point bearing S 61° 39' 21" W, 100.00 feet distant, through a central angle of 17° 37' 17"; thence,
- 14) N 45° 57' 56" W, 38.49 feet to a point on the northerly sideline of said Lot 3; thence,
- 15) along the northerly sideline of said Lot 3, N 77° 44' 00" E, 118.90 feet to the Point of Beginning.

Containing 14,375 square feet, or 0.330 acres

Westerly Scenic Easement:

Beginning at the northwesterly corner of said Lot 3 as shown on said map, thence from said Point of Beginning,

- 1) along the northerly sideline of said Lot 3, N 77° 44' 00" E, 143.12 feet; thence,
- 2) leaving said northerly sideline of said Lot 3, S 42° 52' 00" W, 102.20 feet; thence,
- 3) S 47° 08' 00" E, 74.37 feet to the southerly sideline of said Lot 3; thence,
- 4) along the southerly sideline of said Lot 3, N 74° 07' 30" W, 115.43 feet to the southwestly corner of said Lot 3; thence,
- 5) along the westerly sideline of said Lot 3, N 12° 16' 00" W, 65.00 feet to the Point of Beginning.

Containing 8,055 square feet, or 0.185 acres

Southerly Scenic Easement:

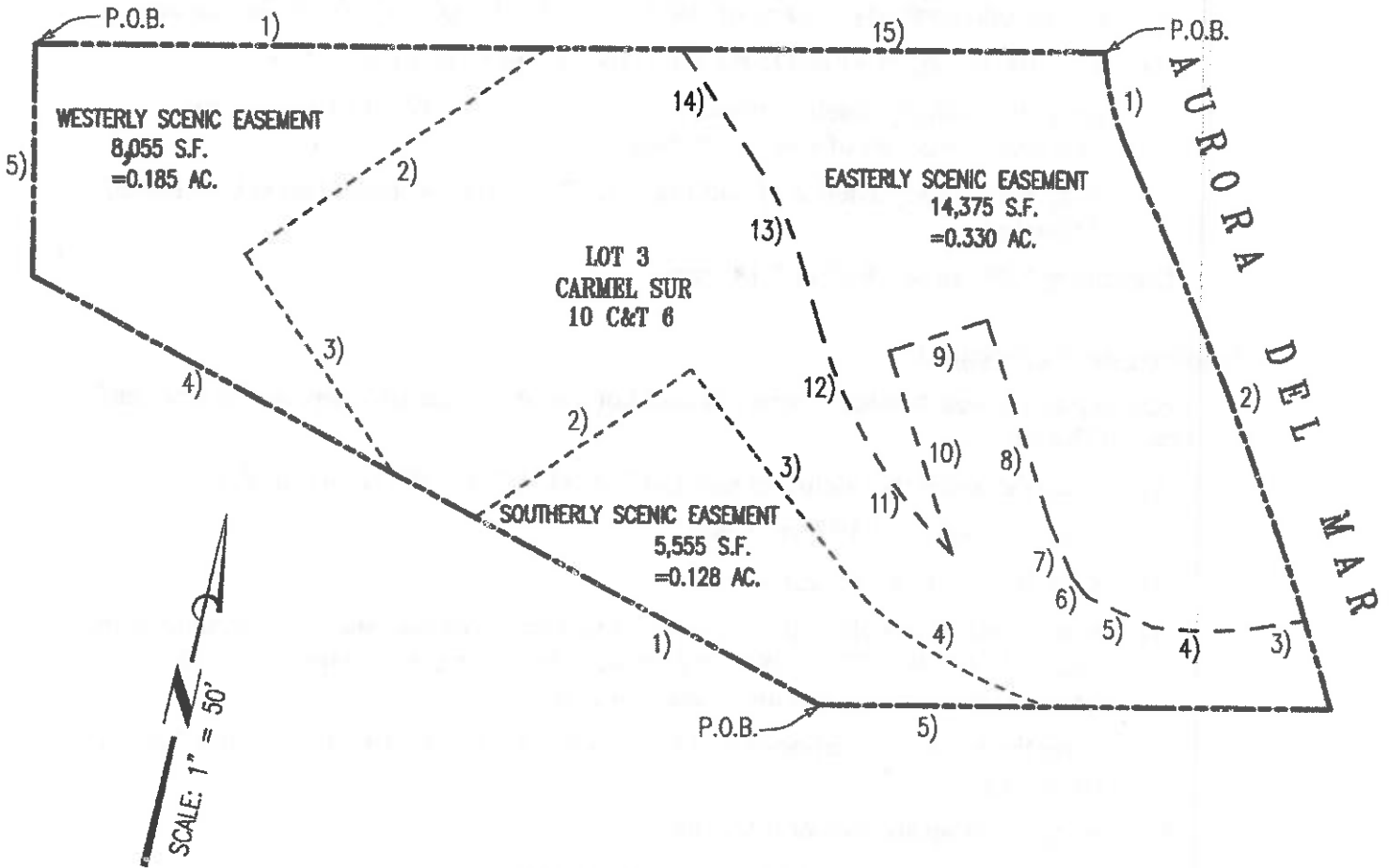
Beginning at the most southerly corner of said Lot 3 as shown on said map, thence from said Point of Beginning,

- 1) along the southerly sideline of said Lot 3, N 74° 07' 30" W, 110.44; thence,
- 2) N 42° 52' 00" E, 73.19 feet; thence,
- 3) S 50° 00' 03" E, 81.28 feet; thence,
- 4) easterly, 60.70 feet along the arc of a non-tangent curve described from a radius point bearing N 30° 38' 30" E, 129.98 feet distant, through a central angle of 26° 45' 27" to a point on the southerly sideline of said Lot 3; thence,
- 5) along the southerly sideline of said Lot 3, S 77° 44' 00" W, 64.75 feet to the Point of Beginning.

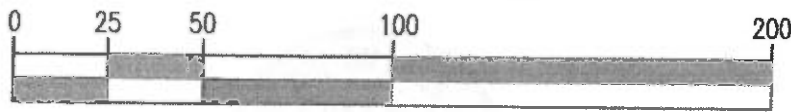
Containing 5,556 square feet, or 0.128 acres



EXHIBIT "B"



GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

PREPARED BY
MONTEREY BAY ENGINEERS, INC.
607 CHARLES AVENUE, SUITE B
SEASIDE, CA 93955
(831) 899-7899



SAFECO #15-798

3-84-140

Recording Request by and
When Recorded Return to:
California Coastal Commission
631 Howard Street, Fourth Floor
San Francisco, California 94105
Attention: Legal Department

REEL 1779 PAGE 50
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

SAFECO TITLE INSURANCE COMPANY

G 47897

OCT 19 9 10 AM '84

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

25

IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT

AND

DECLARATIONS OF RESTRICTIONS

THIS IRREVOCABLE OFFER AND DEDICATION OF OPEN-SPACE EASEMENT AND
DECLARATIONS OF RESTRICTIONS (hereinafter "Offer") is made this

(1) September 21, 19 84, by (2) Edward Overton^{Messick} & Elizabeth

Burroughs Messick (hereinafter referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain
real properties located in the County of (3) Monterey
State of California and described in the attached Exhibit A (hereinafter
referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone
as defined in Section 30103 of the California Public Resources Code (which
code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter
referred to as the "Act") creates the California Coastal Commission
(hereinafter referred to as the "Commission") and requires that any
development approved by the Commission must be consistent with the policies
of the Act set forth in Chapter 3 of Division 20 of the Public Resources
Code; and

IV. WHEREAS, Pursuant to the Act, Grantor applied to the Commission
for a permit to undertake development as defined in the Act within the

1 coastal zone of (4) Monterey County (hereinafter the
2 "Permit"); and

3 WHEREAS, a coastal development permit, No. (5) 3-84-140 was
4 granted on (6) August 22,, 19 84, by the Commission in
5 accordance with the provisions of the Staff Recommendations and Findings
6 (Exhibit E) attached hereto and hereby incorporated by reference, subject
7 to the following condition:(7)

8 Scenic Easement

9 PRIOR TO TRANSMITTAL OF PERMIT, permittee shall submit and record
10 an easement for the protection of the site's scenic,
11 archaeologic, and botanic resources covering those portions of
the subject site which are outside the areas permitted for
development by this permit.

12 This easement shall be granted to an appropriate public agency or
conservation foundation. Such easement shall be free of prior
13 liens or encumbrances, except for tax liens. Permittee shall
submit for Executive Director, Attorney General, and Grantee,
14 review and approval, the terms, parcel map, and proposed grantee
for the easement, prior to recording.

15 This easement shall include provisions to prohibit development;
to prevent disturbance of native groundcover and wildlife; to
16 prevent damage by livestock; to preclude disturbance of
archaeological materials except under the supervision of the
17 State Historic Preservation Office; to provide for maintenance
needs; and to specify conditions under which diseased or
18 dangerous vegetation may be removed and non-native species
controlled. A restriction allowing only those types of fencing
19 (such as split-rail or wire) which are open enough to allow free
passage of native wildlife shall be included in the terms of the
20 agreement.

21 WHEREAS, the Commission, acting on behalf of the People of the
22 State of California and pursuant to the Act, granted the Permit to the
23 Grantor upon condition (hereinafter the "Condition") requiring inter alia
24 that the Grantor record a deed restriction and irrevocable offer to
25 dedicate an open-space easement over the Property and agrees to restrict
26 development on and use of the Property so as to preserve the open-space and
27 scenic values present on the property and so as to prevent the adverse

1 direct and cumulative effects on coastal resources and public access to the
2 coast which could occur if the Property were not restricted in accordance
3 with this Offer; and

4 VII. WHEREAS, the Commission has placed the Condition on the permit
5 because a finding must be made under Public Resources Code Section 30604(a)
6 that the proposed development is in conformity with the provisions of
7 Chapter 3 of the Act and that in the absence of the protections provided by
8 the Condition said finding could not be made; and

9 VIII. WHEREAS, Grantor has elected to comply with the Condition
10 and execute this Offer so as to enable Grantor to undertake the development
11 authorized by the Permit; and

12 IX. WHEREAS, it is intended that this Offer is irrevocable and shall
13 constitute enforceable restrictions within the meaning of Article XIII,
14 Section 8 of the California Constitution and that said Offer when accepted
15 shall thereby qualify as an enforceable restriction under the provision of
16 the California Revenue and Taxation Code, Section 402.1;

17 NOW THEREFORE, in consideration of the above and the mutual
18 benefit and conditions set forth herein, the substantial public benefits
19 for the protection of coastal resources to be derived, the preservation of
20 the Property in open-space uses and the granting of the Permit to the owner
21 by the Commission, Grantor hereby irrevocably offers to dedicate to the
22 State of California, a political subdivision, the Big Sur Land Trust, or a
23 private association acceptable to the Executive Director of the Commission
24 (hereinafter, the "Grantee"), an open-space easement in gross and in
25 perpetuity for light, air, view, and for the preservation of scenic,
26 archaeologic and botanic resources, over that certain portion of the Property
27 specifically described in Exhibit B (hereinafter the Protected Land); and

1 This Offer and Declaration of Restrictions subjects the Property to
2 the following terms, conditions, and restrictions which shall be effective
3 from the time of recordation of this instrument.

4 1. USE OF PROPERTY. The use of the Protected Land shall be limited
5 to natural open space for habitat protection, private recreation, and
6 resource conservation uses.

7 No development as defined in Public Resources Code, Section 30106,
8 attached hereto as Exhibit C and incorporated herein by this reference,
9 including but not limited to, removal of trees and other major or native
10 vegetation, grading, paving, or installation of structures such as signs,
11 buildings, etc, shall occur or be allowed on the Protected Land with the
12 exception of the following subject to applicable governmental regulatory
13 requirements:

14 (a) the removal of hazardous substances or conditions or diseased
15 plants or trees.

16 (b) the removal of any vegetation which constitutes or contributes to
17 a fire hazard to residential use of neighboring properties, and which
18 vegetation lies within 100 feet of existing or permitted residential
19 development;

20 (c) the installation or repair of those types of fencing (such as split-
21 rail or wire) which are open enough to allow free passage of native wildlife.

22 (d) the excavation of archaeological materials under the supervision of
23 the State Historic Preservation Office.

24 2. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property
25 to ascertain whether the use restrictions set forth above are being observed,
26 at times reasonably acceptable to the Grantor.

27 3. BENEFIT AND BURDEN. This offer shall run with and burden the Property,
and all obligations, terms, conditions, and restrictions hereby imposed shall
be deemed to be covenants and restrictions running with the

1 land and shall be effective limitations on the use of the Property from the
2 date of recordation of this document and shall bind the Grantor and all
3 successors and assigns. This Offer shall benefit the State of California.

4 4. CONSTRUCTION OF VALIDITY. If any provision of these restrictions
5 is held to be invalid or for any reason becomes unenforceable, no other
6 provision shall be thereby affected or impaired.

7 5. ENFORCEMENT. Any act or any conveyance, contract, or
8 authorization whether written or oral by the Grantor which uses or would
9 cause to be used or would permit use of the Protected Land contrary to the
10 terms of this Offer will be deemed a breach hereof. The Grantee may bring
11 any action in court necessary to enforce this Offer, including, but not
12 limited to, injunction to terminate a breaching activity and to force the
13 restoration of all damage done by such activity, or an action to enforce
14 the terms and provisions hereof by specific performance. It is understood
15 and agreed that the Grantee may pursue any appropriate legal and equitable
16 remedies. The Grantee shall have sole discretion to determine under what
17 circumstances an action to enforce the terms and conditions of this Offer
18 shall be brought in law or in equity. Any forbearance on the part of the
19 Grantee to enforce the terms and provisions hereof in the event of a breach
20 shall not be deemed a waiver of Grantee's rights regarding any subsequent
21 breach.

22 6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid
23 all real property taxes and assessments levied or assessed against the
24 Property.

25 7. MAINTENANCE. The Grantee shall not be obligated to maintain,
26 improve, or otherwise expend any funds in connection with the Property or
27 any interest or easement created by this Offer. All costs and expenses for

1 such maintenance, improvement use, or possession shall be borne by the
2 Grantor, except for costs incurred by grantee for monitoring compliance
3 with the terms of this easement.

4 8. LIABILITY AND INDEMNIFICATION. This conveyance is made and
5 accepted upon the express condition that the Grantee, its agencies,
6 departments, officers, agents, and employees are to be free from all
7 liability and claim for damage by reason of any injury to any person or
8 persons, including Grantor, or property of any kind whatsoever and to
9 whomsoever belonging, including Grantor, from any cause or causes
10 whatsoever, except matters arising out of the sole negligence of the
11 Grantee, while in, upon, or in any way connected with the Property, Grantor
12 hereby covenanting and agreeing to indemnify and hold harmless the Grantee,
13 its agencies, departments, officer, agent, and employees from all
14 liability, loss, cost, and obligations on account of or arising out of such
15 injuries or losses however occurring. The Grantee shall have not right of
16 control over, nor duties and responsibilities with respect to the Property
17 which would subject the Grantee to any liability occurring upon the land by
18 virtue of the fact that the right of the Grantee to enter the land is
19 strictly limited to preventing uses inconsistent with the interest granted
20 and does not include the right to enter the land for the purposes of
21 correcting any dangerous condition as defined by California Government Code
22 Section 830.

23 9. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions,
24 exceptions, obligations, and reservations contained in this Offer shall be
25 binding upon and inure to the benefit of the successors and assigns of both
26 the Grantor and the Grantee, whether voluntary or involuntary.

27 10. TERM. This irrevocable offer of dedication shall be binding upon

1 the owner and the heirs, assigns, or successors in interest to the Property
 2 described above for a period of 21 years. Upon recordation of an
 3 acceptance of this offer by the grantee in the form attached hereto as
 4 Exhibit D, this offer and terms, conditions, and restrictions shall have
 5 the effect of a grant of open-space and scenic easement in gross and
 6 perpetuity for light, air, view and the preservation of scenic qualities
 7 over the open-space area that shall run with the land and be binding on the
 8 parties, heirs assigns, and successors.

9 Acceptance of the Offer is subject to a covenant which runs with the
 10 land, providing that any offeree to accept the easement may not abandon it
 11 but must instead offer the easement to other public agencies or private
 12 associations acceptable to the Executive Director of the Commission for the
 13 duration of the term of the original Offer to Dedicate.

14 Executed on this 21st day of September 1984 at Lahaina

15 Maui, Hawaii, ~~California~~. DATED: _____

16 Edward Overton Messick

Elizabeth Burroughs Messick

17 OWNER *Edward Overton Messick*
 18 _____

OWNER *Elizabeth Burroughs Messick*

19 TYPE OR PRINT NAME ABOVE

TYPE OR PRINT NAME ABOVE

20 (NOTARY ACKNOWLEDGMENT NEXT PAGE)

21 //

22 //

23 //

24 //

25 //

26 //

27 //

//


//

1 NOTE TO NOTARY PUBLIC:

2 If your are notarizing the signatures of anyone signing on behalf of a
3 trust, corporation, partnership, etc., please use the correct notary jurat
4 (acknowledgment) as explained in your Notary Law Book.

5 State of ~~California~~ HAWAII }
6 County of Maui } SS

7 On this 21st day of September, in the year 1984
8 before me Joanne M. Fukumoto, a Notary Public, personally
9 appeared Edward Overton & Elizabeth Burroughs Messick,
10 personally known to me (or proved to me on the basis of satisfactory
11 evidence) to be the person(s) whose name is subscribed to this instrument,
12 and acknowledged that he/she/they executed it:

13
14 
15 _____
16 NOTARY PUBLIC IN AND FOR SAID COUNTY AND
17 STATE
18 My commission expires: 7-28-85

13
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1 This is to certify that the offer of dedication set forth above is
 2 hereby acknowledged by the undersigned officer on behalf of the California
 3 Coastal Commission pursuant to authority conferred by the California
 4 Coastal Commission when it granted Coastal Development No. 3-84-140
 5 on August 22, 1984, and the California Coastal Commission consents
 6 to recordation thereof by its duly authorized officer.

7 Dated: October 15, 1984

Mary L Hudson
Mary L. Hudson, Staff Counsel

California Coastal Commission

10 STATE OF California)

) ss

12 COUNTY OF San Francisco

13 On October 15, 1984, before me Deborah S Benrubi, a
 14 Notary Public, personally appeared Mary L. Hudson,

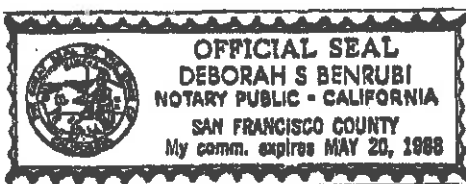
15 personally known to me to be (or proved to me on the basis of satisfactory
 16 evidence) to be the person who executed this instrument as the

17 Staff Counsel, and authorized representative of the

18 TITLE

19 California Coastal Commission and acknowledged to me that the California
 20 Coastal Commission executed it.

21 Witness my hand and official seal.



Deborah S Benrubi

Notary Public in and for said
 County and State

EXHIBIT A

REEL 1779 PAGE 59

Property

PARCEL I

Lot Numbered 3, as said Lot is shown on that certain map entitled, Map of "Tract No. 588, Carmel Sur", filed in Volume 10 of Maps, "Cities and Towns", at page 6, Monterey County Records.

PARCEL II

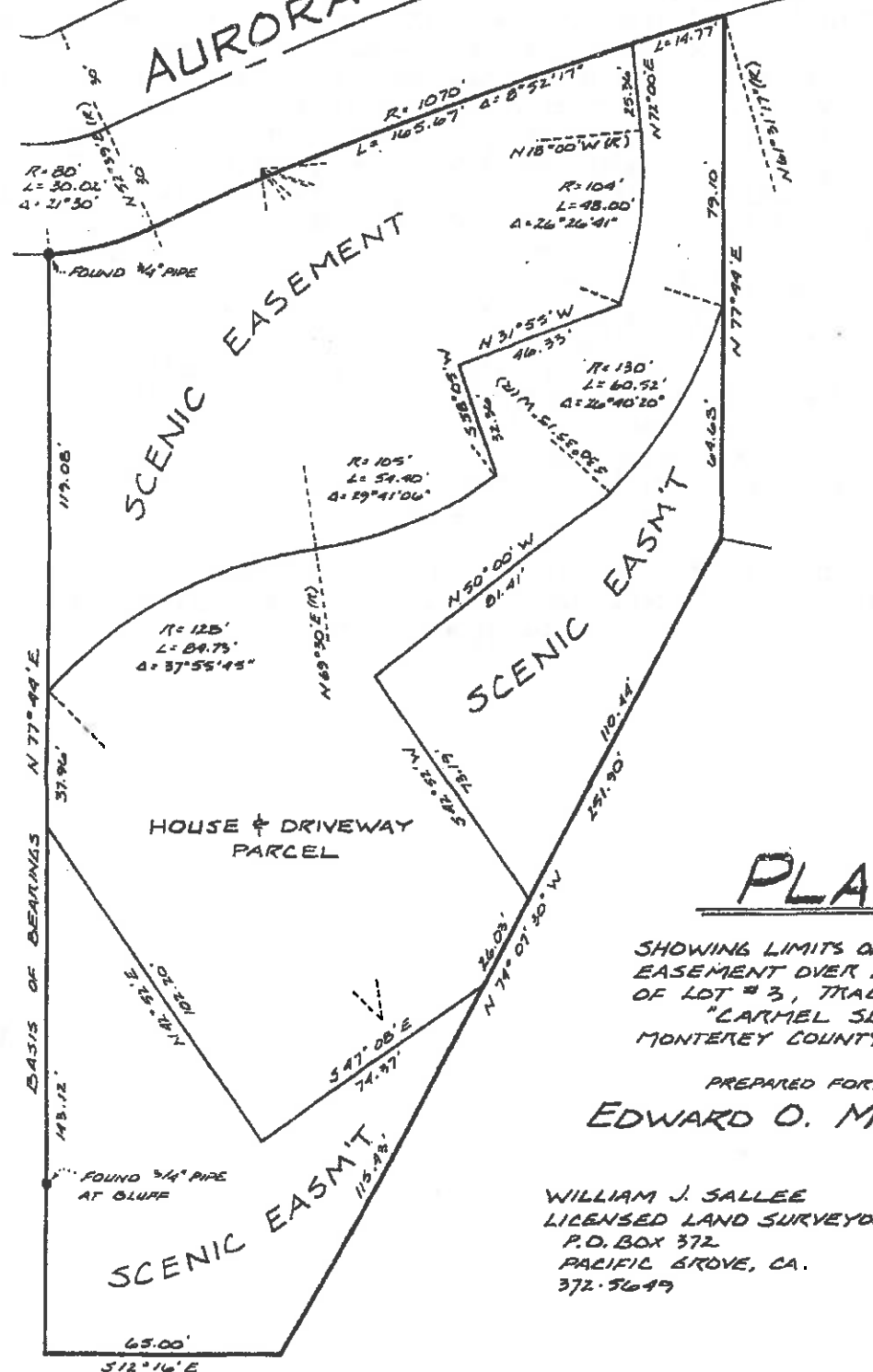
A non-exclusive right of way for road and utility purposes over and across Aurora Del Mar as said road is shown and so designated on the map herein referred to.

EXHIBIT B

Protected Land

SCALE: 1" = 30'

AURORA DEL MAR



Protected Land

EXHIBIT B

REL 1779 PAGE 60

PLAT

SHOWING LIMITS OF SCENIC EASEMENT OVER PORTIONS OF LOT # 3, TRACT # 588 "CARMEL SUR" MONTEREY COUNTY, CALIFORNIA

PREPARED FOR:
EDWARD O. MESSICK

WILLIAM J. SALLEE
LICENSED LAND SURVEYOR
P.O. BOX 372
PACIFIC GROVE, CA.
372-5649



OCT. 1, 1984

REL 1779 PAGE 61

Exhibit D

Public Resources Code Section 30106

[30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

EXHIBIT D

Recording Requested by and
When Recorded Mail To:
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
Attention: Legal Department

REEL 1779 PAGE 63

CERTIFICATE OF ACCEPTANCE

OFFER OF DEDICATION OF OPEN SPACE EASEMENT

This is to certify that _____ hereby accepts
the Offer to Dedicate Open Space Easement executed by _____
_____ on _____, 19____ and recorded on
_____, 19 ____ in Book _____, Page _____ of the Official Records in
the Office of the Recorder of _____ County.

_____ By _____

Dated

For _____

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 19____, before the undersigned, a Notary Public in
and for the said State, personally appeared _____,
Title _____ known to me to be the _____
of the _____, who executed the within instrument and
acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

This is to certify that _____
is a public agency/private association acceptable to the Executive Director of
the _____ Commission, California
Coastal Commission to be Grantee under the above described Offer to Dedication.

Dated

Executive Director

Coastal Commission

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On _____, before the undersigned, a Notary Public in and for
said State, personally appeared _____

Name

Title

of the California Coastal Commission and known to me to be the person who
executed the within instrument on behalf of said Commission, and acknowledged to
me that such Commission executed the same.

Witness my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT E

DL/298 8/2/84
REEL 1779 PAGE 65

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

FILED: 7/20/84
49th/180th DAY: 9/7/84
STAFF REPORT: 8/8/84
HEARING DATE: 8/22/84
STAFF: JC - (SC) cm

STAFF REPORT: CONSENT CALENDAR

PROJECT DESCRIPTION

APPLICANT: Edward Messick

PERMIT NO: 3-84-140

PROJECT LOCATION: 30560 Aurora del Mar, Carmel Highlands area,
Monterey County, APN 243-331-03

PROJECT DESCRIPTION: Convert garage to bedroom, add new garage,
grading 219 cubic yards.

LOT AREA: 1.1 acres ZONING: Residential

BLDG. COVERAGE: Existing: 3,671 APPROVED LAND USE

sq. ft. Proposed: 684 sq. ft. PLAN DESIGNATION: Rural
Residential - 1 du/existing parcel

PAVEMENT COVERAGE: Existing:

5200 sq. ft., Reduce by 684 sq. ft. PROJECT DENSITY: 1 du/1.1 acre

LANDSCAPE COVERAGE: 500 sq. ft. HEIGHT ABV. FIN. GRADE: 14 feet

Unimproved: 38,556 sq. ft.

LOCAL APPROVALS RECEIVED: Zoning 7/10/84 - Variance side yard setback

4/20/84; CEQA - Categorical Exempt: 15301; Class 1; Item e

PTT: 1

STAFF RECOMMENDATION

REEL 1779 PAGE 66

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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 Conditions1. Scenic Easement

PRIOR TO TRANSMITTAL OF PERMIT, permittee shall submit and record an easement for the protection of the site's scenic, archaeological, and botanic resources covering those portions of the subject site which are outside the areas permitted for development by this permit.

This easement shall be granted to an appropriate public agency or conservation foundation. Such 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, parcel map, and proposed grantee for the easement, prior to recording.

This easement shall include provisions to prohibit development; to prevent disturbance of native groundcover and wildlife; to prevent damage by livestock; to preclude disturbance of archaeological materials except under the supervision of the State Historic Preservation Office; to provide for maintenance needs; and to specify conditions under which diseased or dangerous vegetation may be removed and non-native species controlled. A restriction allowing only those types of fencing (such as split-rail or wire) which are open enough to allow free passage of native wildlife shall be included in the terms of the agreement.

2. Any excavated materials shall be carefully removed so that spoils are neither placed within or allowed to slide into that area seaward of the upper edge of the bluff. Off site disposition of excavated spoils within the Coastal Zone, shall be subject to prior review and approval by the Executive Director.

FINDINGS AND DECLARATIONS

REEL 1779 PAGE 67

The Commission finds and declares as follows:

1. This development has been completed without first obtaining a coastal permit. The applicant has signed a "Stipulation Concerning Application for Permit" agreeing that the granting of a coastal permit will not affect any present or prospective action for civil penalties arising from the alleged violation.

2. The site is located in the Otter Cove subdivision of Monterey County, south of Malpas Creek in the Big Sur segment Land Use Plan area. The house is west of Highway I and is visible to travellers as are many of the homes in this area where only a single row of parcels separate the Highway from the sea. Areas visible from Highway I are in the "critical viewshed" and are afforded special protection in the LUP for the Big Sur area.

The applicant proposes the conversion of an existing garage to quarters for his mother and the addition of a new garage. The converted garage has no kitchen facilities and is directly a part of the existing home. The garage addition is located on an existing paved parking area and requires minimal vegetation removal and grading. The addition will maintain the same roofline with minimal additional impacts on the visual resources of the area. The existing driveway will be recontoured.

Section 30251 of the Coastal Act requires:

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 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.

3-84-140

Edward Messick

Page 4

The Big Sur Area LUP adopted by the Monterey County Board of Supervisors April, 1984 states in its Scenic Resource policies that development may not intrude into the critical viewshed. However, residential parcels in the critical viewshed in the Otter Cove Subdivision seaward of Highway I south of Malpaso Creek are an exception and shall be permitted to be used for residential purposes subject to standards to protect scenic resources.

Consistent with conditions for other development in this residential area and with Section 30251 of the Coastal Act, a scenic easement to prevent additional viewshed intrusion is required. A condition to manage disposition of spoils to prevent erodible materials from reaching coastal waters in accord with Section 30231 is also required.

Therefore, as conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act of 1976.

3. The Big Sur Coast Local Coastal Program Land Use Plan (LUP) was adopted by the Monterey County Board of Supervisors on April 10, 1984, but has not yet been resubmitted to the Commission. The applicant's proposal as conditioned appears consistent with the document's viewshed policies and with previous Commission actions.

Accordingly, as conditioned to provide for protection of scenic resources, the proposed development will not prejudice the ability of the local government to complete a Local Coastal Program in conformance with 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.

EXHIBIT-A

REEL 1779 PAGE 69

RECOMMENDED CONDITIONS

USE: STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development 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.

EXHIBIT NO. A

APPLICATION NO.

3-84-140

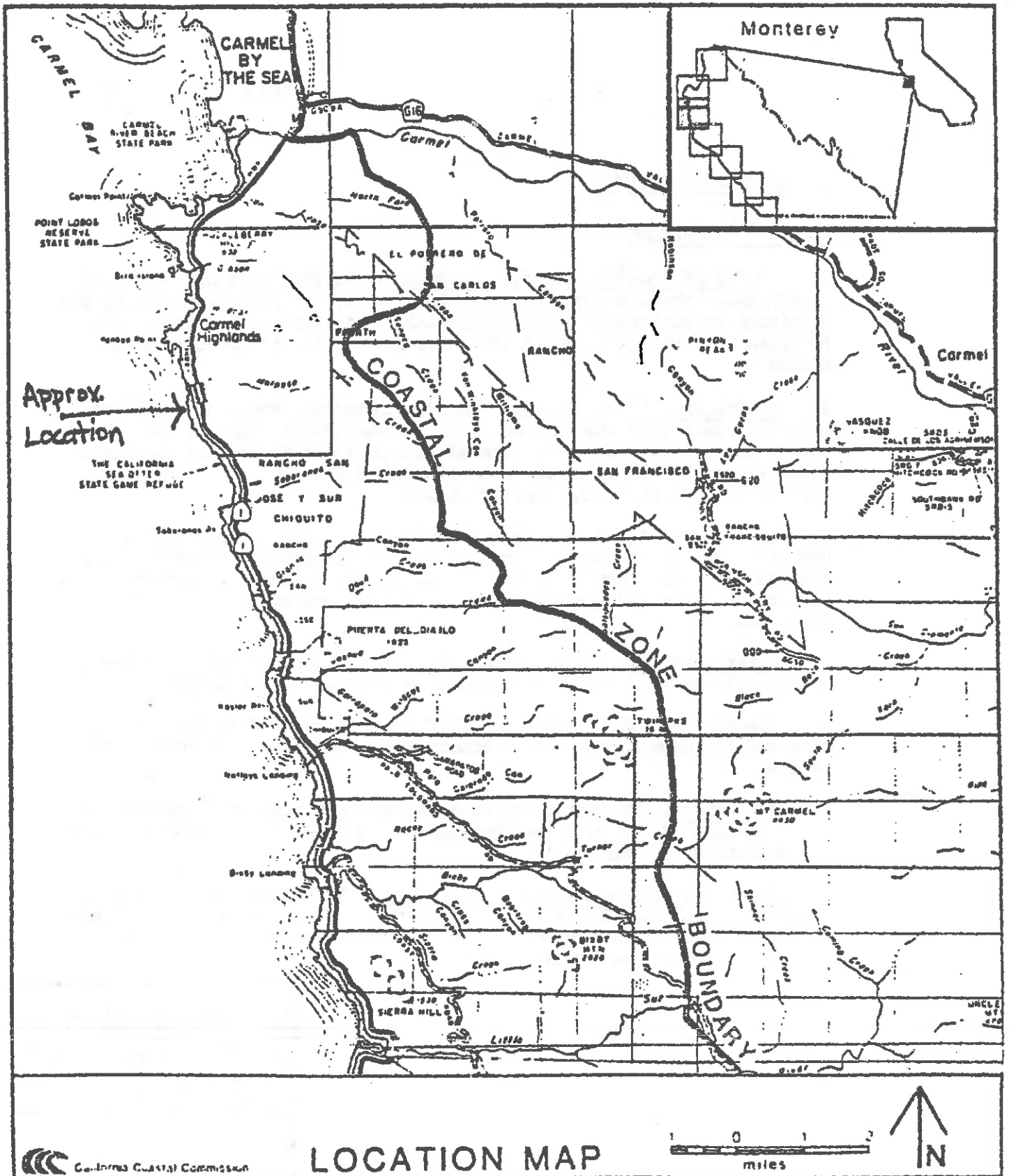
Standard Conditions

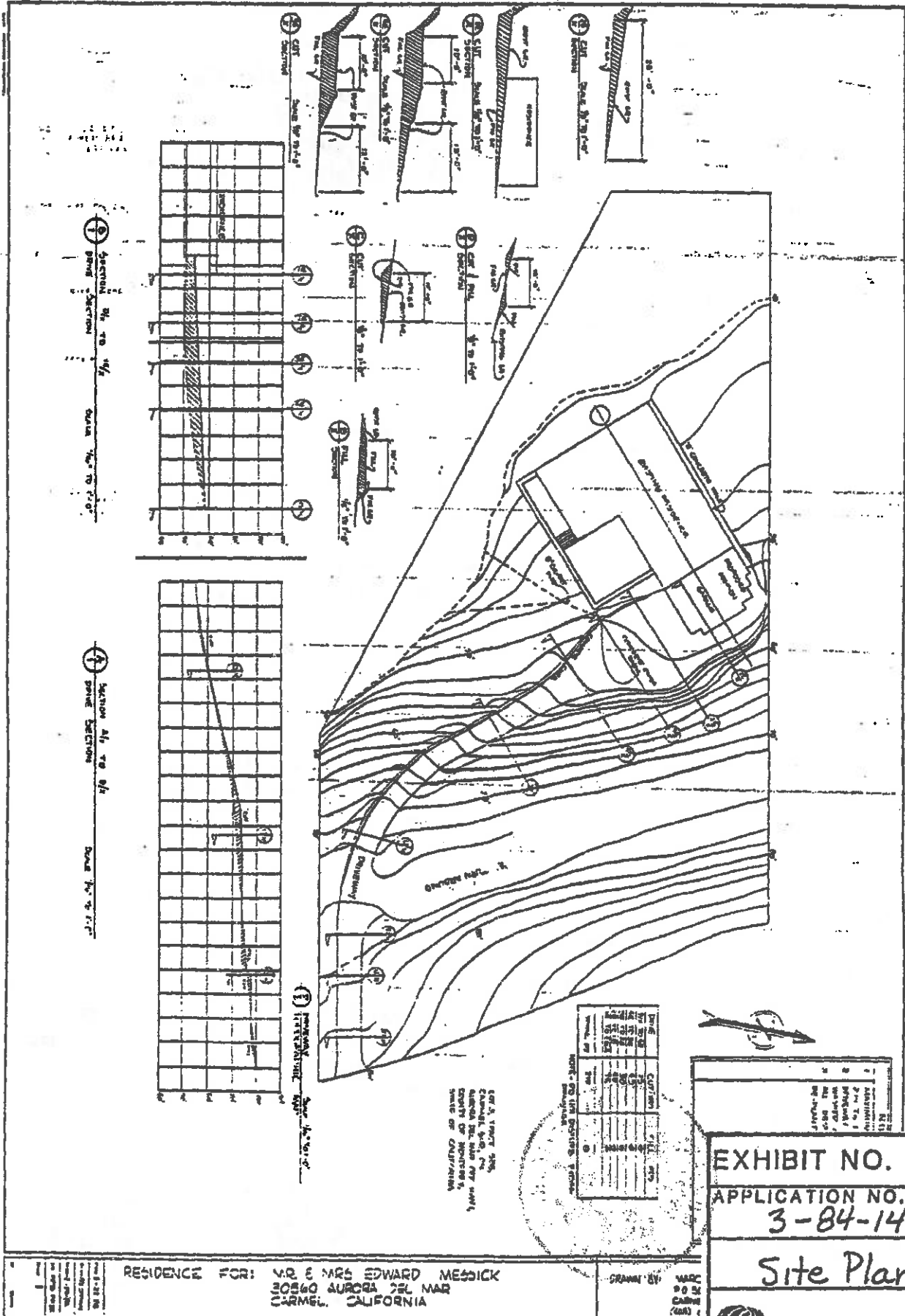


California Coastal Commission

Exhibit D

Page 19 of 21





SECTION A1, TO 1/4" DRIVE SECTION SCALE 1/4" = 1'-0"

SECTION A2, TO 3/4" DRIVE SECTION SCALE 1/4" = 1'-0"

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY PLAN	10/15/83	WMC
2	REVISION	11/15/83	WMC
3	REVISION	12/15/83	WMC
4	REVISION	1/15/84	WMC
5	REVISION	2/15/84	WMC
6	REVISION	3/15/84	WMC
7	REVISION	4/15/84	WMC
8	REVISION	5/15/84	WMC
9	REVISION	6/15/84	WMC
10	REVISION	7/15/84	WMC

DATE	10/15/83
PROJECT NO.	3-84-140
BY	WMC
CHECKED BY	WMC
SCALE	AS SHOWN

EXHIBIT NO. 1

APPLICATION NO.
3-84-140

Site Plan

California Coastal Commission

RESIDENCE FOR: MR & MRS EDWARD MESSICK
13056 AURORA DEL MAR
CARMEL, CALIFORNIA

DRAWN BY: WMC
10/15/83
SCALE: (AS SHOWN)

Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
Filer

RLETICIA
9/06/2005
9:41:50

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
89 S. California St., Suite 200
Ventura, CA 93001-2801

DOCUMENT: 2005092766

Titles: 1/ Pages: 2



Fees
Taxes...
Other
AMT PAID

ATTN: Legal Division

STATE OF CALIFORNIA OFFICIAL BUSINESS

Document entitled to free recordation
Pursuant to Government Code §27383

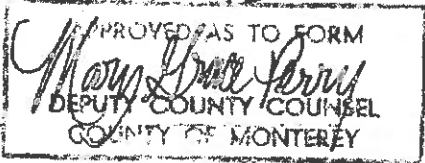
CDP 3-84-140

CERTIFICATE OF ACCEPTANCE
IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT
AND DECLARATIONS OF RESTRICTIONS

This is to certify that the County of Monterey, a political subdivision of the State of California, hereby accepts the Irrevocable Offer to Dedicate Open-Space Easement and Declarations of Restrictions executed by Edward Overton Messick and Elizabeth Burroughs Messick on September 21, 1984, and recorded on October 19, 1984, as Instrument No. G 47897, Reel 1779, Pages 50-71 of the Official Records in the Office of Recorder, County of Monterey.

Dated: 9/6/05

COUNTY OF MONTEREY

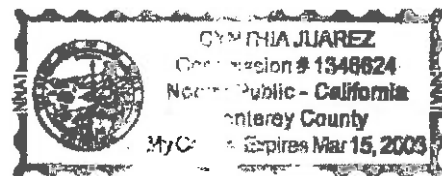


By: [Signature]
W.B. "Butch" Lindley, Chair
Monterey County Board of Supervisors

STATE OF CALIFORNIA
COUNTY OF MONTEREY

On SEPTEMBER 6, 2005, before me, CYNTHIA JUAREZ, a Notary Public personally appeared W. B. LINDLEY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
[Signature]
NOTARY PUBLIC



ACKNOWLEDGMENT BY CALIFORNIA COASTAL COMMISSION

This is to certify that the County of Monterey is a public agency acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Irrevocable Offer to Dedicate Open-Space Easement and Declarations of Restrictions executed by Edward Overton Messick and Elizabeth Burroughs Messick on September 21, 1984, and recorded on October 19, 1984, as Instrument No. G 47897, Reel 1779, Pages 50-71 of the Official Records in the Office of Recorder, County of Monterey.

Dated: May 19, 2005

CALIFORNIA COASTAL COMMISSION

John Bowers
John Bowers, Staff Counsel

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On 05/19/05, before me, Jeff G. Staben, a
Notary Public personally appeared John Bowers, personally known to
me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Jeff G. Staben
NOTARY PUBLIC



END OF DOCUMENT