

Exhibit J

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LCP. In conclusion, this Periodic Review identifies the need for an updated comprehensive planning process, as suggested in Recommendation LU-11.2.

Finally, this report has noted that multiple agencies have jurisdiction in the Moss Landing area. For example, there is the dual coastal permitting jurisdiction shared by the County and Coastal Commission and the independent authorities left to the U.S. Army Corps of Engineers to approve dredging in federal channels and the State Energy Commission to approve power plant improvements. Implementation of an updated LCP for this area could be more effective if the various agencies participate in the plan update process and coordinate their individual regulatory tasks to the maximum extent possible. Recommendations LU-11.4, LU-11.5, LU-11.6 and LU-11.7 suggest measures to facilitate such coordinated planning.

e. Issue LU-12: Carmel Area Uplands

(1) Overview

This subchapter addresses the following concern identified through issue scoping: **Ensure that the largely undeveloped, rural resource lands in the Carmel Area uplands are not inappropriately developed.**

The Carmel Uplands, east of Highway One and Carmel Highlands, consist of very scenic lands, rural residential development, large tracts of grazing lands, public recreational lands, and environmentally sensitive habitats. Among the sensitive plant communities are Monterey pine, Gowen cypress, and central maritime chaparral. The 6,318 acre Uplands contains approximately 81 parcels, of which about two dozen somewhat scattered ones remain vacant and in private ownership.

The certified Monterey County LCP recognizes the sensitivity of these lands through application of protective scenic, habitat, and steep slope policies and generally very low residential density residential zoning, except for Odello East and substantial overnight accommodations on Point Lobos Ranch. The LCP contains many site-specific directives for these and other large holdings, with the general intent to cluster new development. The LCP states that the development of large properties (over 50 acres) and ranches should be guided by an overall management plan.

Since certification of the LCP several of these lands have been acquired for open space purposes, including much of Palo Corona Ranch, Odello-East, and Point Lobos Ranch. The latter acquisition ended plans for any new hotels. Several parcels have been developed pursuant to coastal permits. As part of the permit process, additional lands have been placed under conservation easements. In applying the protective policies of the LCP, the County has attempted to mitigate for adverse impacts. But in allowing new houses averaging over 5,000 square feet and associated structures, driveways, and septic systems, there has been resulting environmentally sensitive maritime chaparral habitat loss and additional visible development. The presence of the new homes and the background biological information associated with them has increased awareness of the sensitivity of the area (see also Issue SH-28: Protecting Central Maritime Chaparral Habitat for increased understanding of the sensitive nature of the maritime chaparral habitat). At the same time, some property acquisitions

have increased the potential for additional public use of the Uplands.

In light of the changed development patterns, ownerships, and protective legal instruments in the Uplands, the LCP is ripe for some updating and further review. At one level, LCP updates are needed to better reflect new owners' objectives for open space preservation over residential development. At another level, LCP policies need to be fully applied and in some cases clarified so that environmental damage is limited on any of the remaining parcels where development can occur. At still another level, it is desirable to re-examine the current designations and policies for the Uplands through preparation of a more detailed area plan. Some results of such more specific planning could be parameters for individual site developments, priorities for acquisitions, identifying candidate transfer and receiver sites, integrating habitat and recreational enhancements, design criteria for new homes, updated trail corridor locations, and possibly locating a hostel site. Many entities continue to be actively pursuing open space preservation in this area, and their efforts deserve support. In turn it is important that agreements reached that allow for some future development in return for some preservation be structured in a manner that best furthers Coastal Act objectives.

Since the following analysis comprehensively addresses land use, it relates to specific resource issues present in the Carmel Uplands. Two of these involve central maritime chaparral and Monterey pine forest that are also discussed under Issues SH-28 and SH-29. The information provided in this section on impacts to maritime chaparral and pine forest is further evidence of the need to protect these sensitive habitats. In turn the general recommendations under Issues SH-28 and SH-29 are applicable to the Carmel Area as well. Another issue present in the Carmel Uplands is high fire hazard, which is also discussed under Issue CH-9: Rural Fire Standards.

(2) Resource Background

Carmel Uplands Characterization

South of the Carmel River, the frontal slopes of the Santa Lucia Range rise east of Highway One, providing a dramatic portal to the southern Carmel Area and Big Sur Coast beyond. This portion of the Carmel Area segment inland of Highway One from the Carmel River to Malpaso Creek consists of very scenic lands, environmentally sensitive habitats, large tracts of grazing lands, and public recreational lands. Outside of an existing residential enclave known as the Carmel Highlands, this area is sparsely developed.

The Carmel Area uplands consist of approximately 81 parcels covering a total area of approximately 6,318 acres (see Map LU-12a). The average parcel size is 68 acres with the largest parcel being 527 acres. Major land holdings and their sizes are shown in Table LU-12a, along with their land use designations and allowed density of development. Prior to certification, nine of these parcels had been developed for residential use. Since certification ten additional parcels have been developed for residential use, resulting in 19 (or 23%) of these parcels developed for residential use, some with multiple homes on them. Of the 81 parcels, approximately 41 parcels are protected from development by public ownership or by having conservation or agricultural easements or other

agreements that prohibit or restrict additional development. The remaining 21 vacant parcels still have development potential, with at least two parcels on which multiple dwellings can be allowed (for a total of 28 dwelling units).

The vegetation on the Santa Lucia frontal slopes in this area is a mix of fairly dense oak woodland, Monterey pine and mixed conifer forests, and more open chaparral and baccharis scrub. The local coastal program includes descriptions for various portions of the frontal slopes, summarized below. Because of the vegetation cover and rough, mountainous terrain, the Santa Lucia frontal slopes are a high fire hazard, and the area becomes more remote and removed from urban services the further one goes inland of Highway One.

Threats to Carmel Uplands Resources

The primary threat to the Carmel Uplands resources is from new development on vacant parcels and redevelopment of existing structures. New development can displace habitat, intrude on the viewshed, and have other direct and indirect impacts. Map LU-12b shows remaining vacant parcels in the Uplands. As much of this area is remote from urban services, examples of indirect impacts include visible utility lines, improved roads on steep slopes or in habitat areas to meet fire access requirements, and sensitive vegetation clearing to reduce fire risks (see Issue CH-9: Rural Fire Standards).

Responses to Protect Carmel Upland Resources

In recognition of the scenic quality, sensitive habitat areas, and rural character of the area, a large portion of the Carmel Uplands has been purchased by either the California Department of Parks and Recreation or the Big Sur Land Trust since certification of the LCP. Currently, approximately 1,934 acres are in State Parks or BSLT ownership, and approximately 5,532 acres are in private ownership protected by conservation easements, or other agreements that prohibit or restrict development. See the fourth column of Table LU-12a and Map LU-12b for descriptions and locations of these protected lands.

(3) Local Coastal Program Provisions

The *Carmel Area Land Use Plan* has a combination of general and parcel-specific policies that apply to the Carmel Uplands. The following text describes the Plan's planning principles for the Carmel Uplands, as well as provides brief descriptions of the area:

North of San Jose Creek [Palo Corona Frontal Slopes]

Dominating the northern entrance to the Big Sur Country is a coastal mountain of arresting beauty, known today as the Palo Corona Ranch. This handsome landform enhances the coastal beauty of the Carmel area with its greenbelts and gentle slopes, rocky areas, wooded sections, and natural ridgelines. The northerly and westerly sides of the mountain slope gradually to the Carmel River flatland on the north and to Highway 1 on the west. Because of their visual prominence and scenic beauty, it is essential that the present use or at least the openness of the northerly, and westerly slopes remain undisturbed.

Also of importance is the grazing of cattle that takes place on the Palo Corona Ranch. The grassland hills north of San Jose Creek are the major ranching resource of the Carmel area.

The overall planning objective for this 2,040-acre area is, consequently, to guide future land development in a way that preserves both the open scenic qualities as well as the viability of the traditional ranching activities. Development should be sited out of view from major public viewpoints and corridors in locations that will not result in conversion of grazing lands or interference with ranch operations.

Flatlands

The "Flatlands" extends from the east side of Highway 1 for a depth of approximately 2,500 feet to the 400-foot elevation line. It is bounded on the north by San Jose Creek and on the south by Gibson Creek. This area of approximately 300 acres lies opposite Point Lobos State Reserve and includes the "Polo Field" and scenic pasturelands.

Development of the "Flatlands" is constrained by the proximity of sensitive coastal resources - the rare and endangered Gowen cypress woodland on the east side of Highway 1 (this is part of Point Lobos State Reserve) and the greater portion of Point Lobos Reserve on the highway's west side. An adequate setback area should be created around the Gowen Cypress Annex to protect this resource from potential adverse impacts. All development should be coordinated with State Department of Parks and Recreation's planning for the area.

The objective for the Flatlands is to preserve the scenic character of the open and highly visible pasturelands by concentrating all development within the forested area. At the same time, the forested character must be retained - thus the area east of the highway should appear no different from the wooded area west of the highway in Point Lobos State Reserve. Limited access to any development from Highway 1 should be provided with the road system screened by the forest cover to the greatest extent possible.

Development suitable for the "Flatlands" area would consist of a mix of residential and visitor-serving and day use recreation uses such as a lodge, walking and riding trails, a stable, etc. Preference shall be given to visitor serving and recreation uses. For the Polo Field, an extension of the existing church usage from the north may be appropriate.

Intermediate Terrain

Between San Jose Creek and Malpasos Creek lies the "Intermediate Terrain." It lies immediately east of the "Flatlands," rising rather abruptly from an elevation of approximately 400 feet to 1,000 feet. This heavily forested terrain is characterized by steep slopes of 40 to 80 percent. The very steep canyons of San Jose, Gibson, Wildcat, and Malpasos Creeks essentially preclude development, thereby protecting the area's watersheds and riparian habitat. There are some 1,450 acres in this planning unit, but only 100 acres may be suitable for development, based only on consideration of slope.

It is the planning objective for this area to preserve the Monterey pine and coast redwood forest resources, the water quality of the coastal streams, and the rural character of the area. Low-density rural residential development should be clustered on those few buildable areas of 30 percent slope and less. Building sites and access roads should not intrude into the public viewshed. As previously mentioned, the Flatlands are designated for a mix of residential and visitor-serving uses. An alternative location for a lodge-type visitor serving facility is the forested ridge of Huckleberry Hill. The visual prominence of this ridge from Highway 1, public lands and other major public use areas is a constraint to any development located here. Development should not be visible from major public viewpoints and viewing corridors. Proper siting and design and maximum retention of the existing tree cover will be essential in order to hide structures and access roads from public views.

The Uplands

Continuing to the east and rising from an elevation of 1000 feet to the crests at 1,800 to 2,000 foot elevations is the terrain that is called the Uplands. This land is essentially above the tree line, although clusters of pines have survived at this elevation. As in the intermediate terrain, this land rises abruptly, but here too, at the crest of the hill, there are plateaus of relatively flat land. Of some 2,100 acres - of which 364 acres are now in public ownership - there are approximately 450 acres of relatively level land (i.e., areas less than 30 percent slope). It is possible that some development could occur on these plateaus. However, these areas are remote; water supply to accommodate development is limited; and access is difficult. The cutting of new roads or improvement of existing roads to serve additional development of this area is a particular concern as such activity could permanently mar the open, scenic ridges.

The planning objective for this area shall be to preserve its open space and scenic recreational values. Low-intensity uses shall be allowed, and the land shall be retained in the largest possible parcels. Residential development of the Lobos Ridge Subdivision (located on Point Lobos Ridge) is considered appropriate if such development can be sited, designed, or screened to be effectively hidden from public view.

The following general policies relate to development within the Carmel Area uplands:

4.4.2.6. New subdivision and development of undeveloped parcels south of the Carmel River shall be permitted only if the following principal criteria can be fully met in addition to other applicable policies of this plan:

- Structures, can be located, designed, or screened to be outside of the public viewshed.

- Narrow roads, which can be sited to minimize impact upon the viewshed and require a minimum of grading.

- Roads and structures can be sited to avoid disruption or degradation of riparian corridors and other sensitive plant and wildlife habitats.

- Access roads for new development can be constructed to meet minimum County standards as well as the resource protection standards of this plan.

- Development would be in keeping with the present rural character of the area.

- Development of roads and houses would be avoided on slopes exceeding 30 percent, unless this siting enhances the overall objectives and policies of this plan for individual parcels.

- Adequate sewer service or adequate sewage disposal area that qualifies under County standards is available.

- Adequate water supply is available.

4.4.3.G.1: The development of large properties (over 50 acres) and ranches should be guided by an overall management plan. The plan should reflect the long-range open space values, and low-intensity recreation, and how development of the property will be phased over time.

The LCP estimated 312 new residences could be built in the Carmel Area uplands. Some sites have a specific maximum density assigned to them. For the remaining area “a density of 1 unit per 40 acres is required for new subdivisions below the 1,000-foot elevation, while for areas above the 1000-foot elevation, a density of 1 unit per 80 acres is required” (*Carmel Area LUP* Section 4.5.F). Caretaker homes can be constructed on parcels greater than 40 acres in size; one per parcel.

Much of the area is designated “Watershed and Scenic Conservation” (*LUP* Section 4.5.F), which provides for:

Protection of the watershed, streams, plant communities, and scenic values is the primary objective. This land use category applies to the upland and mountainous areas east of Highway 1. This is a multiple-use category in which several types of low intensity uses are

appropriate. These include: ranching and grazing of animals, recreational uses permitted in the Undeveloped and Scenic Outdoor Recreation category, rural residences, and related employee housing.

Permitted uses in the Scenic and Natural Resource Recreation designation (LUP Section 4.5.B) are:

Low-intensity recreational and educational uses that are compatible with protection of the area's natural resources which require a minimum level of development to accommodate basic user needs and which necessitate minimal alteration of the natural environment are appropriate. Uses may include hiking, fishing, picnicking, nature study, backpacking, horse riding, and walk-in camping, beach sand replenishment and grazing. Improvements in areas under this category are limited to picnic sites, hiking trails, restrooms, and parking areas.

The third column of Table LU-12a shows the land use designations for the major properties. Those over 50 acres or with a Special Treatment overlay also require an overall management plan in conjunction with subdivision or multiple unit permits. Section 20.146.070.A of the County Code details the management plan's required steps and contents, including delineating where different types of uses are to occur.

Table LU-12a. Major Land Holdings in the Carmel Area Uplands

Land Holding and Approx. Size (acres)	LCP Land Use Designations and Development Densities	Status
Odello-East ~134 ac	Part Agricultural Conservation - Part Medium Density residential with Special Treatment overlay; up to 162 clustered units & some commercial & recreational (LUP policy 4.4.3.E.2)	51 acres of property acquired by Big Sur Land Trust; put in agricultural easement; other 83 acres of property acquired by Clint Eastwood and put in agricultural easement.
Quail Meadows ~25 ac	Watershed & Scenic Conservation 1 unit/40 acres	Development plan for outside of the coastal zone resulted in the coastal zone portion being rezoned to Open Space.
Palo Corona (Frontal slopes are 560 ac)	Watershed & Scenic Conservation; with Special Treatment overlay over frontal slopes 1 unit/40 acres density transferred out of public viewshed	Majority of land acquired by Big Sur Land Trust; one 54-acre in-holding parcel is developed; 1 vacant 40-acre viewshed in-holding parcel remains developable.
Rancho San Carlos ~600 ac	Watershed & Scenic Conservation 1 unit/40 acres access shall be through Carmel Valley. (4.4.2.3; 4.4.3.E.7)	Specific plan approval for the portion of the property outside of the coastal zone allowed no development in coastal zone, but the conceptual master plan shows 5 homesites in the coastal zone
Carmelite Monastery	Public-Quasi Public	Private religious facility
Point Lobos Ranch 343 acres in	Watershed and Scenic Conservation With Flatlands, Intermediate Terrain and Uplands special treatment overlays	1,312 acres acquired by Big Sur Land Trust for transfer to State Parks; 317 acre in-holding allows for 1 house 24.2 acres subdivided into 7

Land Holding and Approx. Size (acres)	LCP Land Use Designations and Development Densities	Status
flatlands & intermediate terrain; ~1380 acres in Uplands	28 homes or 270 hotel units or both if transfer residences to Flatlands with Special Treatment overlay (4.4.3.E.4)	lots; one 5.4 acre lot approved for a 10 unit B&B; three other small in-holding lots have residences
Point Lobos Ridge 200 ac in 10 separate parcels	Watershed & Scenic Conservation Since all lots are already 40 ac or less in size, each would be entitled to one unit or a total of 10	Two lots developed at time of LCP certification; two parcels acquired by Big Sur Land Trust; permits approved for residences on two parcels; four vacant private parcels remain
Behavioral Science Institute (BSI) ~120 ac east of Corona Rd in three parcels	Resource Conservation, Forest and Upland Habitat Up to 25 clustered homes; outside of view of Highway 1; upper steeper portions to remain in open space (4.4.3.E.6) ^a	Clustering option not fully pursued; three upland parcels purchased privately; permits for homes issued on two; LCP amendment to rezone one parcel to add buildable area, but reduce density.
Gushman/ Wright ~785 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour	One permit issued on a 25 acre parcel; lot line adjustment on 360 ac involving four parcels; remaining ~400 ac consisting of four parcels is vacant
Hall now Keig ~154 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour	home constructed pursuant to Coastal Commission permit; management plan prepared; lot line adjustment in conjunction with former Sawyer property approved
Sawyer now Keig ~434 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour, with Special treatment overlay; up to 16 homes allowed if clustered on lower 30 acres (4.4.3.E.5)	Acquired by Keig, who did lot line adjustment in conjunction with former Hall property
Garrapata State Park 344 ac	Scenic & Natural Resource Recreation	Owned by State Parks

^a County Code Section 20.146.120.C.7 says up to 40 homes.

(4) Local Coastal Program Implementation

Since LCP certification in 1988, approximately 30 coastal permits have been issued for developments in the Carmel Uplands. These include two for subdivisions, seven for lot line adjustments, and several for a total of ten new homes, as described in the following sections.

New Subdivisions

One permit was issued for a subdivision for what had been part of Point Lobos Ranch.¹⁶¹ Two lots totaling 24.25 acres and containing three homes were resubdivided into seven lots. This permit was

¹⁶¹ County coastal permit SB94001 (3-MCO-00-039). The original approval of SB94001, before it was revised, was appealed to the Coastal Commission as A-3-MCO-99-057. That appeal was rendered moot by the subsequent revision to SB94001, which was not appealed.

appealed to the Coastal Commission. The issue was that the Ranch was supposed to be subject to an overall plan, and this subdivision was just for a portion. The County amended the permit to show what would be the uses and densities allowed on the entire Ranch and this new permit was not appealed. The final allocation was consistent with the LCP and overall has resulted in much less density, since the majority of the property was being transferred to State Parks. Information in the permit file sent to the Coastal Commission stated that the flora is dominated by a large stand of mature Monterey pines, only one was to be removed for the subdivision access road, forest management plans would be required for individual lots, and that there were no significant sensitive habitat impacts. Subsequent review of a proposed home on one of the newly created parcels revealed that several Monterey pine trees would have to be removed in order to allow the lot to be developed and that the biological report for the original subdivision estimated a total of 41 Monterey pines would be removed.

One permit was issued to Garren for a subdivision of a 27-acre parcel that was formerly part of Behavioral Scenic Institute into two parcels of 16.4 and 10.6 acres.¹⁶² The upper 16.4 acres is partially designated Low Density Residential and mostly Resource Conservation. A building site was shown located in the Low Density Residential portion of the site and a preserve was shown for the Resource Conservation portion of the site. This permit followed Coastal Commission approval of an LCP amendment that slightly increased the amount of Low Density Residential land area (by decreasing the Resource Conservation area) and reducing the density of the Low Density Residential area from 1 unit per acre to 3.5 units per acre. A deed restriction was required to be placed over the portions of the site over 30% slope or in Hooker's Manzanita.¹⁶³ The new smaller parcel 10.6-acre parcel is located in the Low Density (1 unit /3.5 acres) Residential designation.

Lot Line Adjustment Permits

Two lot line adjustments were approved for the owner of the Palo Corona Ranch. Parcel sizes went from 604, 6.5, and 15.5 acres to 526, 47, and 53 acres. The latter two new parcels were created in the public viewshed (in return for the two small parcels retired), pursuant to a Court order concerning the decedent's will. One has two existing homes and accessory structures; the other is vacant.¹⁶⁴ Then, the 526 and 47-acre parcels were adjusted to 533 and 40 acres.¹⁶⁵ The latter is the vacant viewshed parcel. No findings were made with regard to *Carmel Area LUP* viewshed policies, although the Negative Declaration states, "The subject lot line adjustment will not alter the aesthetic quality of the area."¹⁶⁶

Two lot line adjustment permits were issued for Rancho San Carlos. Parcel sizes went from 62.4,

¹⁶² County coastal permit MS94009 (3-MCO-95-004).

¹⁶³ The site plan in the permit shows the portion of the 16.4 acre parcel designated "Resource Conservation" to be an "Upland Preserve." It is unknown if the deed restricted area of over 30% slope and Hooker's manzanita corresponds to the Preserve or RC area.

¹⁶⁴ County coastal permit LL96016 (3-MCO-96-85).

¹⁶⁵ County coastal permit LL96023 (3-MCO-96-86).

¹⁶⁶ Negative Declaration for County coastal permit LL96016 (3-MCO-96-085).

1952.6, and 330.4 acres to 488.6, 768.4, and 1088.4 acres under the first permit.¹⁶⁷ Different parcels went from 27.2, 77.9, 42.3, and 6.99 acres to 20.6, 20.9, 63.8, and 49.1 acres under the second permit.¹⁶⁸ This latter permit included a right-of-way shown from Carmel Valley.

The fifth lot line adjustment was to Gushman involving four parcels totaling 310 acres, in conjunction with the aforementioned approval of three additional homes.¹⁶⁹ Parcel sizes went from 151, 19.05, 65.56 and 74.659 acres to 65, 86, 74.6, and 84.6 acres. A forest management plan, a scenic easement on all land over 30% slope or containing sensitive habitat (outside the building envelope), and an access easement were required. (See Issue PA-11: Coastal Trail System for further discussion of this easement requirement)

The sixth lot line adjustment was also to Gushman on former BSI land. Parcel sizes went from 0.612, 30.38, and 2.11 acres to parcel sizes of 2.56, 27.08, and 3.46 acres.¹⁷⁰ The 27.08-acre parcel was later issued the permits for a subdivision mentioned above and for a home to Garren mentioned below.

The final lot line adjustment was issued to Keig, who acquired the 160-acre former Hall parcel with one residence and the 450-acre vacant former Sawyer parcel. The lot line adjustment resulted in two parcels: one for 11.69 acres and one of 598.7 acres. A condition of the permit was that the applicant request rezonings of the two parcels to 1 density unit/199 acres and 1/density unit/11.69 acres, respectively. This would allow a total of only four homes (three new ones). The permit established and required recordation of building envelopes on the large parcel clustered on the lower portion of the property. One new building envelope would be in grasslands, one in pine forest. These were as shown on the previously required management plan prepared for the property in conjunction with the permit issued by the Coastal Commission for the first house. No LCP amendment to memorialize and recertify the rezoning was ever submitted by Monterey County.

New Home Permits

One permit was issued to Bliss for a 11,235 square foot home on a vacant 40-acre parcel on Point Lobos Ridge.¹⁷¹ The permit raised issues of size and visibility from Point Lobos Reserve, adverse impacts to environmentally sensitive maritime chaparral habitat, and compatibility with adjacent parklands. A biology report characterized the entire site as maritime chaparral, although portions of the building pad location had been cleared. The total area of disturbance for development would be about one acre. Required mitigation included landscape restoration to eliminate and restore all existing roads and road cuts other than the primary road through the parcel and the driveway serving the home; revegetation with native plants consistent with a biological report prepared for the project including the replacement of a quarter of an acre of sensitive plant species; and a scenic and

¹⁶⁷ County coastal permit LL92034 (3-MCO-93-18).

¹⁶⁸ County coastal permit PLN980479 (3-MCO-98-188).

¹⁶⁹ County coastal permit PC6251 (3-MCO-89-166).

¹⁷⁰ County coastal permit LL92015 (3-MCO-92-092).

¹⁷¹ County coastal permit 980149 (3-MCO-00-329).

conservation easement for slopes over 30% and areas with environmentally sensitive habitats outside of the building envelope. Required mitigation to prevent visual impacts from development of the house included landscaping sufficient to screen the structure from Point Lobos.

The Bliss permit was brought before the Coastal Commission for an Executive Director Determination based on procedural issues related to identifying as appealable projects that allow development in environmentally sensitive habitat areas to prevent a takings issue. The issue of appealability was ultimately resolved by a settlement agreement, which required the house to be limited in size to no more than 8,000 square feet, and the height of the structure reduced to a maximum of 12 feet above natural grade. Additionally, as a result of the settlement agreement, the permit was amended to require mitigation that placed slopes over 30% and the remaining area outside of the development envelope (approximately 39 acres) into a scenic conservation easement, and that restored the landscape by eliminating and restoring existing roads and road cuts on the site, except for the driveway, and the primary road through the parcel.¹⁷² As a result of the settlement agreement, required mitigation to prevent visual impacts from development of the house also included the preparation and implementation of a landscaping plan, using native vegetation, including mature trees so that the home would not be visible from common viewing areas as specified in the Carmel Area LCP, including, but not limited to Point Lobos State Reserve and Highway One, for the life of the project. The permit allowed an exception to this provision of non-visibility for the first five years of the permit, to allow some time for growth of planted trees and other landscaping.

Another permit on Lobos Ridge was issued to Williams (later Schulte) for a two-story 8,976 square foot house plus barn and guesthouse.¹⁷³ The permit was conditioned for earth-tone colors and landscape screening, as the findings indicated that the parcel was in the public viewshed. The constructed house is plainly visible from Point Lobos Reserve. The biologic report indicated that the building site was environmentally sensitive dwarf coast chaparral, but that impacts were not significant considered the small amount of habitat affected. The permit found the project with consistent with policies that govern development adjacent to sensitive habitats and included conditions for reuse of the graded topsoil, revegetation with species compatible with the chaparral community, biologic monitoring, and an easement over the non-building envelope portion of the site.

One permit was issued to Sena to convert an existing 1,410 square foot house to office/guesthouse/storage and construct a new 2,489 square foot house with 840 square foot garage and 2,028 square foot barn on a parcel on Point Lobos Ridge. New development was found not to be visible to the naked eye and designed to prevent daytime glare and nighttime lighting. The new development was said to be outside of central maritime chaparral. 3.9 acres of maritime chaparral was proposed to be cleared for a vineyard, but that portion of the application was denied. A scenic

¹⁷² County coastal permit amendment to 980149 (3-MCO-02-169).

¹⁷³ County coastal permit PC07608 (3-MCO-91-137). An amended County coastal permit 980225 reduced the size of the house to 6,335 square feet.

easement was required. The proposed removal of three trees was deemed insignificant, but nevertheless were required to be replaced at a 4:1 ratio.

One permit was issued to Hudson for a 3,380 square foot home, plus garage, guesthouse, and barn in a meadow just off Highway One in Point Lobos Ranch screened by trees. This permit was approved absent an overall Ranch management plan on a parcel where the lot lines had been reconfigured, apparently without benefit of a coastal permit.

One permit was issued to Bechtolsheim (now Southern Hills) for a 3,855 square foot house and 704 square foot garage on a 56.64-acre parcel that had been part of the Behavioral Science Institute (or BSI). The permit raised issues of structures being visible from Point Lobos State Reserve. Mitigation to insure minimizing visibility included landscaping screening, using natural materials, and controlling exterior lighting. The permit also raised the issue of development being built in sensitive maritime chaparral habitat, but noted that no vegetation would be disturbed by the project. The permit also raised the issue of development being built in plots of buckwheat (host to the endangered Smiths blue butterfly) Lewis Clarkia, and Douglas spineflower. The permit findings noted their abundance, deeming the loss insignificant and conditioned the project to replace the habitat on a 2 to 1 basis. Other site constraints included the development being above 30% slope and located in a high fire hazard area. The siting was close to the edge of the property on Mt. Devon Road, leaving the remainder of the property open and partially to be placed under a County required scenic easement.

One permit was issued to Garren for a 4,493-square foot home on a 16.4-acre parcel created from a 27-acre former BSI parcel, described above.¹⁷⁴ The site was described as a near-pristine closed cone forest with some maritime chaparral. The chaparral was not deemed an environmentally sensitive habitat area, but some parts of the parcel were determined to have sensitive species. A deed restriction was required on the subdivision permit that required development to avoid sensitive plants and 30% slopes.¹⁷⁵ The permit for the house was conditioned to require that invasives be removed. Findings indicated that the home would not be within the public viewshed.

One permit was issued to Forsyth Company (German) for a three-story, 6,970-square foot house on a 25-acre parcel formerly owned by Wright. The permit raised the issue of visibility from Point Lobos State Reserve. It was approved by the Board of Supervisors on appeal with findings that visibility was reduced due to resiting and a lowered height. The permit also raised the issue of building in chaparral, which was cleared for a well site prior to a permit issued and was addressed as a violation. A restoration plan was required, but the permit is unclear whether and how much environmentally sensitive habitat area would be lost from the construction.

The permits issued to Gushman authorized development of three homes of 4,112, 4,810, and 5,568

¹⁷⁴ County coastal permit 94163 (3-MCO-95-005).

¹⁷⁵ County coastal permit MS94009 (3-MCO-95-004).

square feet.¹⁷⁶ None of the building sites were located in the public viewshed. Later a new permit was issued to Heyman for one of these homes: a 4,004 square foot house on the 74-acre parcel. The previously required scenic easement was slightly modified to accommodate the new home design. Findings indicated that the original purposes of the easement requirement would still be fulfilled and that the house would not be in the public viewshed.

One additional permit application for a home remains unresolved. The County Planning Commission denied a permit request for a 3,750-square foot home on a 2.8 acre parcel just south of BSI (APN 241-161-005) based on an unsuitable septic system location, impacts to public viewshed (of Highway One and Point Lobos State Reserve), excessive natural landform alteration (grading of steep slopes), potential erosion, slope instability (landslide potential), and vegetation removal. No areas on the parcel are less than 40 acres. This matter was appealed to the Board of Supervisors and never finalized. The last action in February 2002 was a Board directive for the applicant and County staff to try to find an acceptable building site on the property and the proposal may have since been abandoned.¹⁷⁷

Other County Actions

One permit was issued for a bed and breakfast on a parcel in Point Lobos Ranch. This permit was also appealed to the Coastal Commission to address overall density on the Ranch discussed above.¹⁷⁸ The Commission conditioned the permit to require recordation of the density allocation. A condition was also added to require a management plan to address coordination with State Parks, who was acquiring the land surrounding the bed and breakfast.

Finally, the County took another action that should have been an LCP amendment, but no application was ever submitted. A rezoning to Open Space from Watershed and Scenic Conservation was approved for Quail Meadows at the edge of the Coastal Zone.¹⁷⁹ There was also a lot line adjustment approved on Point Lobos Ranch that was not subject to a coastal permit.

(5) Analysis of Coastal Act Conformance

More recent experience with the cumulative effects of continued development in the Carmel Uplands indicates that continued residential subdivision, lot line adjustments, and construction in the Carmel Uplands sometimes conflicts with Coastal Act policies that require concentrating development in urban areas and protecting agricultural, environmentally sensitive habitat area, scenic, and upland recreational lands. The County needs to more consistently apply policies to

¹⁷⁶ Note: these figures may be adjusted in conjunction with the final County approval; this information is not readily available in the final action notice.

¹⁷⁷ County coastal permit PLN990150 (3-MCO-01-650). Personal communication, Thom McCue Monterey County Planning and Building Inspection Department, June 13, 2003.

¹⁷⁸ County coastal permit PLN970284 (A-3-MCO-99-092).

¹⁷⁹ Correspondence Hyman to Towner, memorandum of October 25, 1991 advising that an LCP amendment request should be submitted.

minimize the impacts of development and should revise the LCP to more specifically favor clustering that helps achieve this objective.

Implementation of Provisions Allowing New Development

With regard to the individual projects that were approved, most of the homes were fairly large (with an average size of over 5,000 square feet) and involved clearing an equivalent or even larger area of native vegetation from the building site for road access, fire clearance, and septic systems. Although the County required significant mitigation measures, and in some cases, required smaller dwellings and lower rooflines than originally proposed, land disturbance and view impacts were not required to be minimized as much as possible. As to protecting the public viewshed, experience shows that required measures such as tree screening and lighting controls can still result in highly noticeable impacts to the landscape. With regard to habitat protection, given that areas of central maritime chaparral are considered environmentally sensitive habitat area, the County should have implemented LCP policies that mandate minimizing “structures and impervious surface to the amount needed to reduce environmental impacts to the greatest extent possible.” And, since certification of the LCP, new information has been developed on the importance of central maritime chaparral. Although the Coastal Commission endorsed the County permit at the time, since then it seems apparent that to create four new parcels with no building sites outside of native Monterey pine forest conflicts with policies protecting environmentally sensitive habitat areas (see Issue SH-5: Subdividing ESHA in Appendix A).¹⁸⁰ The ambiguity in the LCP, that says residential use shall be located within the forest cover, but also that resource protection shall prevail when there are policy conflicts, should be clarified.¹⁸¹

Implementation of Overall Management Plans and Clustering Provisions

When reviewing the area wide development patterns, it appears private and public acquisitions have eliminated about 90% of the development potential possible under the LCP. . Many new owners, such as Big Sur Land Trust, Eastwood, Garren, and Keig have preserved significant tracts of land and reduced development potential. These are positive, significant steps that have occurred since certification that deserve commendation.

However, in two cases, where zoning changes occurred (at Quail Meadows) or were to have occurred (on Keig), the County has yet to submit the necessary LCP amendments (see Issue IM-9: Local Coastal Program Amendments)

¹⁸⁰ See also Issue SH-29: Protection of Monterey Pine Forest Habitat. That discussion focuses on the Del Monte Forest planning area, where the LCP’s consideration of Monterey pine forest as environmentally sensitive habitat area is more ambiguous than in the Carmel Area’s LUP. If pine forest in the Carmel Area functions as habitat for rare or endemic species, has special value for wildlife, or is in the public viewshed, it is defined as environmentally sensitive habitat area under *County Code* Section 20.146.040. The permit for subdividing pine forest into 7 lots had no finding to this effect. But, as discussed under Issue SH-29, even if these criteria were not met, the native pine forest on this site should be considered environmentally sensitive habitat area, based on what is now known about the habitat.

¹⁸¹ *Carmel Area LUP* policy 4.4.3.E.8 directs location in the forest cover, while *Carmel Area LUP* policy 4.4.2.7 says to resolve conflicts between Plan policies in a manner which is most protective of significant coastal resources.

Also, while the LCP policies governing overall development plans encourage clustering, among other measures, as a means of minimizing development impacts, several changed circumstances have made it more difficult to implement such clustered development patterns. For example, changes in ownership, the limited ability to modify development patterns of previously subdivided single-family lots, and private density credit transfers led to the following problems:

- Ownership of Palo Corona Ranch was split between a private party and the Big Sur Land Trust. A vacant parcel remains in the Palo Corona viewshed. The LCP requires development to be transferred to a portion of the Palo Corona Ranch outside of the viewshed. A strict application of LCP policies for the lot line adjustment permit would not have resulted in a new vacant parcel being created in the public viewshed. For example, the two new parcels could have been created outside of the public viewshed, or each newly created parcel could have been drawn to contain one existing house. A private agreement retained two density credits for the two new viewshed parcels, but the lot line adjustment permit did not mention or explain this. The LCP's mandated transfer of development credit to outside of the viewshed cannot now occur because the remaining portion of the Ranch has been sold to the Big Sur Land Trust.
- Ownership of Point Lobos Ranch was split between private parties and the Big Sur Land Trust without agreement on a division of the density credits that had been assigned to the Ranch as a whole. This was left for the County and Coastal Commission to resolve when subsequent development permits were considered. The Commission found on appeal of the permits that the spirit of the LCP provision requiring a master plan for the Ranch was carried out through the land transfer agreements. Some questioned that the resulting development pattern of a State Reserve partially bisected by private residences and bed and breakfasts was optimal for managing a Reserve that contained significant environmentally sensitive habitat area, including mountain lion habitat. Also, the details regarding development additional public recreational amenities and visitor-serving accommodations (other than the bed and breakfasts) were left for future planning.
- BSI's upland holdings were sold to different private buyers. The required overall management plan was not prepared for this Special Treatment Area, which should have resulted in clustering development on the lower, less sensitive portion of the property. As a result, one remote home was built in the public viewshed. And another parcel completely designated Resource Conservation remains privately owned.
- Comprehensive planning occurred for Rancho San Carlos, but the comparative small coastal zone portion was not part of the County's approval of development on the rest of the Ranch. The Ranch's development pattern outside of the coastal zone is thus set (all is in a preserve status, except development envelopes). Therefore, when a coastal permit application is considered, there is no possibility to move building sites outside of the coastal zone, if such would better achieve LCP objectives, such as viewshed protection. Also, since there are multiple parcels of the Ranch in the coastal zone, including non-contiguous ones, they could

be sold separately and, thus, comprehensive planning and clustering opportunities could be lost.

Conclusion

The County has made much progress toward the vision of preserving the Carmel Uplands in open space for habitat protection and recreational use. Much of this has occurred outside of the regulatory process through acquisitions. The permit process has been less successful in fully achieving LCP policy objectives. If past findings for approval are repeated for future permits, the approximately 30 additional homes that could be built would be large, some likely sited in environmentally sensitive habitat area and/or the public viewshed (see Map LU-12b for remaining development potential for primary homes, after accounting for various acquisitions, agreements, and County actions since LCP certification). Also, given the remoteness of the Carmel Uplands and the large parcel sizes, caretakers' homes (allowed on parcels over 40 acres) are likely to be proposed.¹⁸² These will all likely require some amount of new or upgraded road construction, that also may intrude on the public viewshed (road scars are sometimes more of an impact than is the home itself) and affect riparian and other environmentally sensitive habitat areas (See Issue CH-9: Rural Fire Standards).

Also, as substantial land is transferred to the public, most if not all of these homesites and their associated access roads would be visible from some existing or future public trail. Thus, the result is that the "pristine" wilderness viewshed will likely be punctuated by large, scattered homes in remote areas. Night lighting and the sun reflecting off of development can also impact the public viewshed. Being isolated, pressure for caretakers' units, currently not allowed, will increase. Also, maritime chaparral needs fire to survive. Even a few more homes in the area would mean that it would be difficult to perform controlled burns and that there would be increased pressure to extinguish any wildfires (see Issue SH-28: Protecting Central Maritime Chaparral Habitat). The area is also mountain lion habitat and the introduction of residences may impact the habitat. Although existing LCP policy language should serve to prevent or mitigate each of these impacts in isolation, the combination of factors may lead to trade offs and the need to approve development for constitutional taking reasons. And, as noted, some opportunities for clustering, which could reduce the length of needed roads and other impacts, have been lost.

Thus, a multi-faceted approach to protecting the resources of the Carmel Area Uplands involving regulation, acquisition, and planning is needed. Basic LCP resource protection policies should be followed. Updates to these policies should also be adopted for Monterey pine forest, maritime chaparral, and other sensitive habitat protection, viewshed protection, ridgeline development restrictions, and "trophy" homes (see Recommendations for Issues SH-1: ESHA Identification, SH-28: Protecting Central Maritime Chaparral Habitat, SH-29: Protection of Monterey Pine Forest Habitat, CH-9: Rural Fire Standards, SR-7: Critical Viewsheds, SR-8: Ridgetop Development, and SR-9: "Trophy" Homes). There is also the need to update land use designations and densities, in line with the ownership changes and property restrictions that have occurred. These are specified in Recommendation LU-12.1.

¹⁸² It appears that there are approximately 15 "40-acres or greater" parcels, which would be eligible for caretakers' houses.

The County should be rigorous about requiring overall management plans where they are prescribed. While lot line adjustments do not and should not require overall management plans, they need more scrutiny to ensure that LCP objectives are not compromised. Recommendation LU-12.3 addresses this need. If possible, there should be improved communication between the County and private parties about to place restrictions on portions of their property or sell off portions, so that the remainders are not problematic (see Recommendation LU-12.7).

Of course, continued acquisition of land to be placed in preserves and/or public ownership would help prevent further impacts from residential development and deserves support (see Recommendations LU-12.5 and LU-12.6).

However, even public ownership does not completely address all the Coastal Act issues associated with the Carmel Area Uplands. Implementation of the LCP policies must assure that the location and intensity of development of public recreational facilities will protect environmentally sensitive habitat areas and scenic views in conformity with Coastal Act policies. This Periodic Review suggests that regardless of the ownership status, the Carmel Uplands would benefit from a more specific planning exercise to account for changed circumstances. Regulation and management on an individual parcel or parcel-grouping basis is limited as to what can be accomplished (see Recommendation LU-12.4). If the Uplands's resources are to be optimally protected, the entire area should be reviewed as to the best locations for development and for open space, both public and private. For example, a comprehensive strategy could emerge to cluster remaining private development potential out of sensitive areas and set standards for their construction. Such a strategy may benefit from the use of transfers of density credits, which should be an option allowed, as provided for in Recommendation LU-12.2. And, for the lands available to the public, decisions as to where to locate trails, for example, need to be made on an area-wide basis to ensure connectivity and optimal locations (see Recommendations PA-10-1, PA-11.1, and PA-11.2).

f. Issue LU-13: Big Sur Coast Highway Management Plan

(1) Overview

This subchapter addresses the following concern identified through issue scoping: **Ensure that the Monterey County Local Coastal Program (LCP) is coordinated with the Big Sur Coast Highway Management Plan (CHMP).**

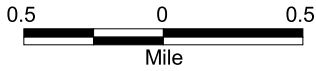
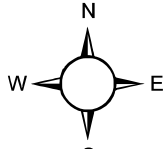
Highway One south of the Carmel River in Monterey County is one of the state's most spectacular scenic resources and provides access along this rugged shoreline for more than three million visitors per year. It is also extremely vulnerable to the elements and requires substantial maintenance just to keep it functional.

The certified Monterey County LCP is primarily concerned with Highway One capacity and traffic management issues, given that it is mandated and physically constrained to stay two-lane. The LCP contains various policies directed toward making highway improvements such as turnouts, shoulders, and parking. The LCP also contains a request for an overall design theme for the

Major Properties Carmel Area Uplands

Coastal Zone and Planning Area Boundary
1000 foot contour lines are shown.

Map Note: Locations approximate. For illustrative purposes only. Attempts have been made to ensure completeness of the data; nonetheless, inaccuracies may exist. The information presented on this map is subject to revision.
Base Map Source: Monterey County Planning Dept, 2002.
Data Source: CA Coastal Commission, 2003;
Monterey County Planning Dept, 2002.



Ocean

Pacific

City of Carmel-by-the-Sea

Carmel Point

Carmel River

River

Odello-East

Quail Meadows

Carmelite Monastery

Palo Corona (Frontal Slopes)

Point Lobos State Reserve

Point (Flatlands)

Point (Intermediate)

Lobos

Rancho San Carlos

Rancho San Carlos

Gibson

Southern Hills (formerly BSI)

Ridge

Ranch

Carmel Highlands

Garren (formerly BSI)

Keig (formerly Hall)

Wright

Yankee Point

Carmel Highlands-Riviera

Keig (formerly Sawyer)

Garrapata

Malpaso

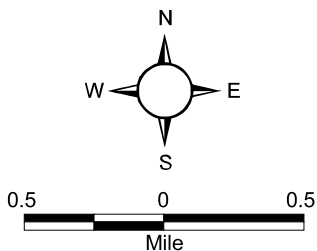
Creek







State

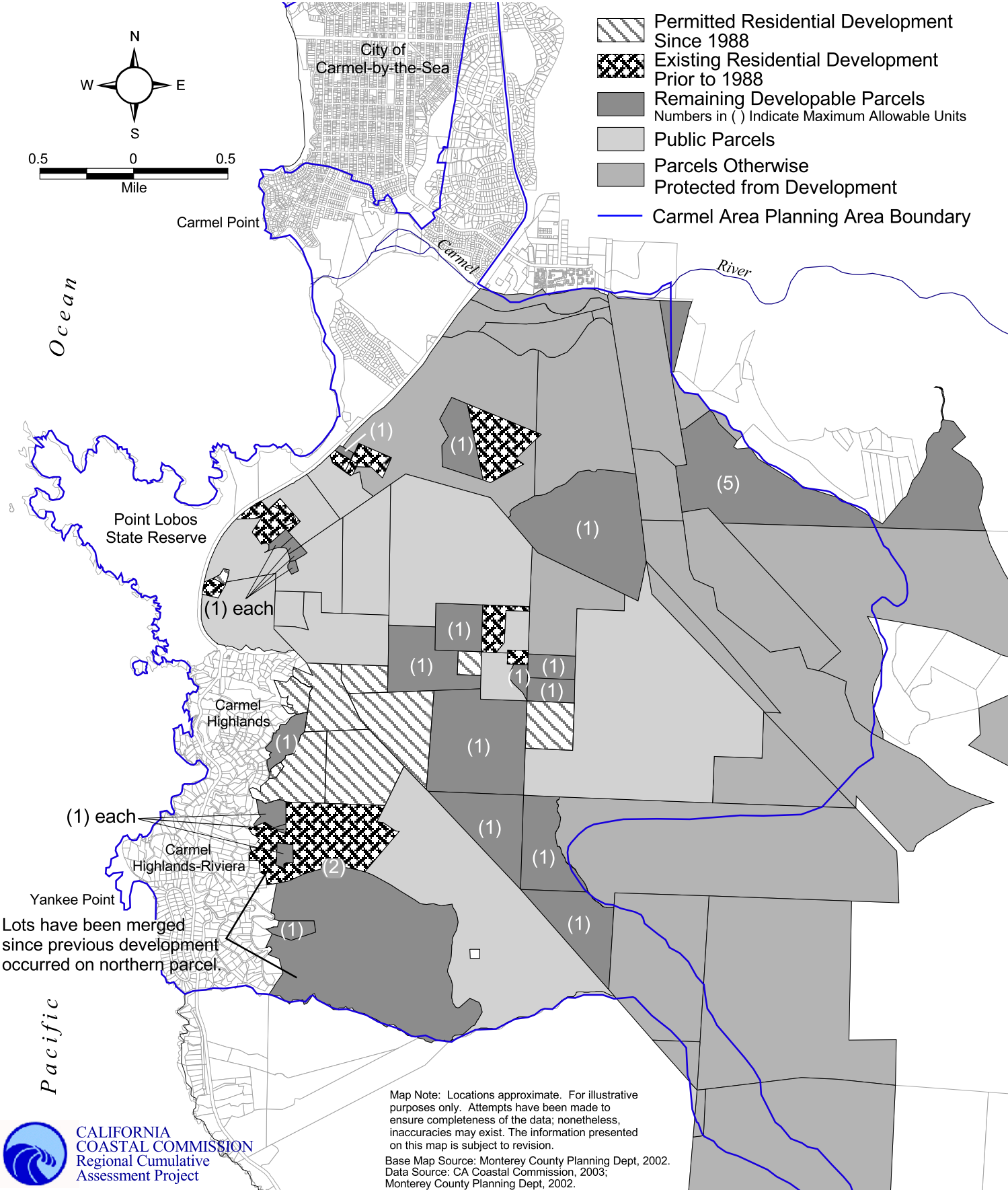
Park

Wright

Development and Preservation Carmel Area Uplands



-  Permitted Residential Development Since 1988
-  Existing Residential Development Prior to 1988
-  Remaining Developable Parcels
Numbers in () Indicate Maximum Allowable Units
-  Public Parcels
-  Parcels Otherwise Protected from Development
-  Carmel Area Planning Area Boundary



(1) each
 (1) each
 Lots have been merged since previous development occurred on northern parcel.

Map Note: Locations approximate. For illustrative purposes only. Attempts have been made to ensure completeness of the data; nonetheless, inaccuracies may exist. The information presented on this map is subject to revision.
 Base Map Source: Monterey County Planning Dept, 2002.
 Data Source: CA Coastal Commission, 2003; Monterey County Planning Dept, 2002.

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