

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: April 30, 2015	Agenda Item No.: 6
Project Description: Continued from November 13, 2014, and January 29, February 26, and March 12, 2015. Consider a Design Approval of the materials, colors, and design of retaining walls and signage associated with public access improvements directed by the California Coastal Commission.	
Project Location: 48123 Highway 1, Big Sur	APNs: 419-321-010-000 and 419-321-015-000
Planning File Number: PLN140729	Owner/Applicant: WTCC Ventana Investors V LLC (Ventana Inn) Agent: Ray Parks
Planning Area: Big Sur Coast Land Use Plan	Flagged and staked: NA
Zoning Designation: VSC-D (CZ) [Visitor-Serving Commercial, with Design Control Overlay (Coastal Zone)] and WSC/40-D (CZ) [Watershed and Scenic Conservation, 40 acres per unit, with Design Control Overlay (Coastal Zone)]	
CEQA Action: Categorically exempt per Section 15311 of the CEQA Guidelines	
Department: RMA-Planning	

RECOMMENDATION:

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit B**) to:

- 1) Find the project categorically exempt per Section 15311 of the CEQA Guidelines; and
- 2) Approve the Design Approval (PLN140729), based on the findings and evidence (**Exhibit B**).

PROJECT OVERVIEW:

Item continued from the November 13, 2014, and January 29, February 26, and March 12, 2015, Zoning Administrator public hearings.

On June 14, 2013, the California Coastal Commission (CCC), at a duly-noticed public hearing, adopted Restoration Order No. CCC-13-RO-07 (RO), which directed Ventana Inn to construct and install public access improvements on the subject properties - including on-site trail, signage, and parking improvements. The directed improvements are consistent with CCC entitlements granted in 1982 and 1986. The CCC-directed improvements involve the construction of approximately 2,700 linear feet of on-site trails, trail steps, approximately 500 linear feet of retaining walls, and 17 parking spaces (including 2 ADA-compliant spaces). The RO also specifically directed Ventana Inn to enhance and clearly mark the availability of public parking at the Cadillac Flats trailhead area, and to include the California Coastal Trail (CCT) and CCC sign emblems on trail signage. Per the RO, the CCT emblem shall remain in place until the Big Sur Coastal Trail Working Group reaches a final decision on the location of the CCT. Therefore, the County's consideration of the proposed improvements (RMA-Planning File No. PLN140729) is limited to review of the colors, materials, and design of the public access (signage and trail) improvements. The trail improvements and signage would use natural colors and materials (Douglas fir and cedar), except for the disabled parking (aluminum and blue, consistent with State law for such signs), trail map (multi-color to allow for trail and other designations), and interpretive signs (multi-color), as well as the CCT and CCC emblems (aluminum sleeves, and blue and white).

The subject properties are located within the Big Sur Valley Rural Community Center, and are zoned Visitor-Serving Commercial and Watershed and Scenic Conservation, with a Design Control Overlay, which requires County review of projects to ensure the proposed colors,

materials, and design are consistent with the surrounding environment and uses. The location and placement of the public access improvements have already been directed, reviewed, and approved by the CCC, consistent with the CCC's regulatory authority and the policies of the Big Sur Coast Land Use Plan (LUP), and pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and the RO.

Based on the recommendations of the Zoning Administrator, Big Sur LUAC, and interested parties, the Applicant revised the signage to change the primary material from aluminum to wood and reduce the overall number of signs. The Applicant also revised the proposed interpretive sign to ensure an accurate depiction of resources per the Big Sur LUAC recommendation.

The County has received letters and emails from interested parties which have raised issues concerning the County's processing of a Design Approval (instead of a coastal development permit), need for environmental review, use of the easement over Coast Ridge Road, need for a public access management plan, etc (**Exhibits E-1 through E-5**). Other emails, either in general support of or opposition to the project, are part of the project file. The County's purview involves review of the materials, colors, and design of retaining walls and signage associated with public access improvements directed by the CCC. The physical improvements (including location) have already been directed, reviewed, and approved by the CCC, consistent with the CCC's regulatory authority, and pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07. Therefore, the issues raised by the interested parties are not within the purview of the action presently under consideration by the County.

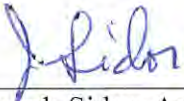
OTHER AGENCY INVOLVEMENT:

The Big Sur Land Use Advisory Committee (LUAC) reviewed the project on October 28, 2014, and voted 3 – 0 to recommend rejection of the signage design as then proposed, and recommended a reduction in the number, height, and size of all signs. Additionally, the LUAC did not support the inclusion of the CCC and CCT emblems, and recommended removal of the emblems from the signage. The LUAC also recommended the signs be made of natural materials (e.g., wood) instead of metal. Finally, by a vote of 3 – 0, the LUAC recommended the interpretive sign be reworked to more accurately reflect the resources that define Big Sur.

After the Zoning Administrator public hearing on November 13, 2014, the Applicant revised the signage material and returned to the LUAC for additional feedback. The LUAC, at a public meeting held on January 13, 2015, voted 4 – 0 to support the project, with the following recommended changes: 1) postpone installation of the California Coastal Trail emblem until the Coastal Trail alignment is recognized by the appropriate governmental agencies; 2) Only use the California Coastal Commission emblem on the internal signs, and delete the wording "Access provided in cooperation with California Coastal Commission"; 3) postpone installation of any signs referring to "Coast Ridge" or "North Coast Ridge Road & Trail" pending adoption of an Access Management Plan per the Big Sur Land Use Plan (BSLUP), with the exception of the proposed sign from the North Coast Ridge Road property owners which would replace the existing USFS sign located at the first two gates on North Coast Ridge Road, subject to USFS approval; 4) modify the trail signs as per exhibit attached to the LUAC minutes of January 13, 2015; 5) eliminate both Highway 1 signs, and use smart phone apps and the Coastal Access Guide to accurately inform the public of the location of public access on the North Coast Ridge Road, rather than signs on the highway that are discouraged by the BSLUP; and 6) hold a meeting of all involved parties including, but not limited to the USFS, Coastal Commission, State Parks and property owners.

After meeting with CCC staff and interested parties, the Applicant submitted a revised signage plan that: 1) retained the California Coastal Trail and Coastal Commission emblems on all signs; 2) retained the wording "Access provided in cooperation with California Coastal Commission"; 3) retained the references to "Coast Ridge" and "Coast Ridge Trail"; 4) revised sign number 11 to incorporate changes recommended by the North Coast Ridge Road property owners, and would replace the existing USFS sign located at the first gate on North Coast Ridge Road, subject to USFS review and approval; 5) retained both signs visible on Highway 1; and 6) eliminated sign numbers 6 and 9, reducing the total number of distinct signage from 15 to 13.

Note: The decision on this project is appealable to the Board of Supervisors, and is not appealable to the California Coastal Commission.


Joseph Sidor, Associate Planner
(831) 755-5262, SidorJ@co.monterey.ca.us
April 23, 2015

cc: Front Counter Copy; Zoning Administrator; Luke Connolly, RMA Services Manager; Joseph Sidor, Project Planner; USFS (Tim Short); California Coastal Commission (John DelArroz and Rick Hyman); WTCC Ventana Investors V LLC (Ventana Inn), Owner; Semi Salmi, Agent; Ray Parks, Agent; David Sweigert, Agent; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); Pam Conant, John Ramistella, Kenneth Wright, Pam Silkwood, Ventana Wildlife Society (Kelly Sorenson), John Harrington, Carolyn Kleefeld, John Cluett, Bill Rodgers, Mike Freed, Lydia Graham, Robert Thompson, Paul Witt, Ellen Benjamin, Isa Jenkins-Starkey, Mike Niemann, Branham Rendlen, Mark Wolfe, and Arden Handshy, Interested Parties; RMA-Planning File PLN140729

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Draft Resolution, including: • Conditions of Approval • Site/Trail Plans and Revised Signage Plan
	Exhibit C	Vicinity Map
	Exhibit D	Land Use Advisory Committee Minutes • October 28, 2014 • January 13, 2015
	Exhibit E	Project Correspondence • Silkwood Letter (Horan Lloyd), dated January 23, 2015 • Del Arroz Letter (CCC), dated March 13, 2015 • Silkwood Letter (Horan Lloyd), dated April 8, 2015 • Freed email, dated April 21, 2015, including attached Irrevocable Offer to Dedicate Public Access Easement • Cluett email*, dated April 22, 2015, including attached Karstens Letter (Big Sur VFB), dated January 11, 2015

* The Cluett email does not include the Irrevocable Offer to Dedicate Public Access Easement, which is attached to the Freed email (**Exhibit E-4**), or the Big Sur LUAC Minutes of January 13, 2015, which are attached at **Exhibit D**.

This report was reviewed by Luke Connolly, RMA Services Manager.

EXHIBIT A

Project Information for PLN140729

Application Name: Wtcc Ventana Investors V Llc (Ventana Inn)
Location: 48123 Hwy 1, Big Sur
Applicable Plan: Coast-Big Sur
Advisory Committee: Big Sur Coast Advisory Committee
Permit Type: Design Administrative
Environmental Status: Previous Environmental Review
Zoning: VSC-D(CZ)|WSC/40-D(CZ)
Primary APN: 419-321-010-000
Coastal Zone: Yes
Final Action Deadline (884): 11/17/2014
Land Use Designation: Rural Community Center

Project Site Data:

Lot Size: 160 acres
Existing Structures (sf): NA
Proposed Structures (sf): NA
Total Sq. Ft.: NA
Special Setbacks on Parcel: N
Coverage Allowed: NA
Coverage Proposed: NA
Height Allowed: NA
Height Proposed: NA
FAR Allowed: NA
FAR Proposed: NA

Resource Zones and Reports:

Seismic Hazard Zone: Relatively Unstable Uplands
Erosion Hazard Zone: Low / Moderate / High
Fire Hazard Zone: Very High
Flood Hazard Zone: X
Archaeological Sensitivity: High
Visual Sensitivity: Big Sur Critical Viewshed
Soils Report #: NA
Biological Report #: NA
Forest Management Rpt. #: NA
Geologic Report #: NA
Archaeological Report #: NA
Traffic Report #: NA

Other Information:

Water Source: NA-Well
Water Purveyor: NA
Fire District: Big Sur VFB
Tree Removal: 0
Grading (cubic yds.): NA
Sewage Disposal (method): NA - OWTS
Sewer District Name: NA

EXHIBIT B
DRAFT RESOLUTION

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

In the matter of the application of:

WTCC VENTANA INVESTORS V LLC (VENTANA INN) (PLN140729)

RESOLUTION NO. 15 -

Resolution by the Monterey County Hearing Body:

- 1) Finding the project categorically exempt per Section 15311 of the CEQA Guidelines; and
- 2) Approving a Design Approval of the materials, colors, and design of retaining walls and signage associated with public access improvements directed by the California Coastal Commission.

[PLN140729, Ventana Inn, 48123 Highway 1, Big Sur, Big Sur Coast Land Use Plan (APNs: 419-321-010-000 and 419-321-015-000)]

The WTCC Ventana Investors V LLC (Ventana Inn) application (PLN140729) came on for public hearing before the Monterey County Zoning Administrator on November 13, 2014, and April 30, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Design Approval of the materials, colors, and design elements of retaining walls and signage associated with public access improvements, the installation and construction of which is directed by the California Coastal Commission. The trail improvements and signage would use natural materials (Douglas fir and cedar), except for the disabled parking sign which would use aluminum. The signs would use natural, earth tone colors, except for the disabled parking (blue), trail map (multi-color), interpretive sign (multi-color), and the California Coastal Trail and Coastal Commission emblems (aluminum sleeves, and blue and white).
EVIDENCE: a) An application for a Design Approval was submitted on September 18, 2014.
b) The property is located at 48123 Highway 1, Big Sur (Assessor's Parcel Numbers 419-321-010-000 and 419-321-015-000), Big Sur Coast Land Use Plan. The parcel is zoned Visitor-Serving Commercial, with Design Control Overlay (Coastal Zone) [VSC-D (CZ)] and Watershed and Scenic Conservation, 40 acres per unit, with Design Control Overlay (Coastal Zone) [WSC/40-D (CZ)], which allows natural colors and materials associated with signage and trail improvements with the issuance of a Design Approval. Therefore, the project is an allowed land use for this site.

- c) On September 30, 2014, a notice of pending administrative design approval was sent to residents within 300 feet of the subject properties. Prior to the deadline of October 10, 2014, the County received three requests for public hearing of the subject Design Approval. The County scheduled a public hearing before the Zoning Administrator for November 13, 2014.
- d) On October 30, 2014, public hearing notices were mailed to residents within 300 feet of the subject properties and to all parties that the Director had reason to know were interested in the application. On October 30, 2014, the County placed a public hearing notice in a newspaper of general circulation within the area. On October 31, 2014, public hearing notices were posted at and near the subject properties.
- e) At the duly noticed public hearing before the Zoning Administrator on November 13, 2014, the project was continued to a date certain on January 29, 2015, to allow the Applicant time to revise the proposed signage and to coordinate revisions with the California Coastal Commission. The project was subsequently continued to dates certain on February 26, March 12, and April 30, 2015.
- f) 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 PLN140729.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Big Sur Coast Land Use Plan;
- Monterey County Coastal Implementation Plan Part 3; and
- Monterey County Zoning Ordinance (Title 20)

No conflicts were found to exist. The County received communications during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents; however, the County finds that the project is consistent with the text, policies, and regulations in the applicable documents cited above. See also Finding No. 3.

- b) The County's purview solely involves review of the materials, colors, and design of retaining walls and signage associated with public access improvements directed by the California Coastal Commission (CCC). The physical improvements (including location) have already been directed, reviewed, and approved by the CCC, consistent with the CCC's regulatory authority, and pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07. Therefore, the physical improvements themselves, as well as their number and location, are not within the purview of the County's action.
- c) The project was referred to the Big Sur Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-

338, this application warranted referral to the LUAC because the project is a Design Approval subject to review by the Zoning Administrator (due to a request for public hearing).

- d) The LUAC, at a public meeting held on October 28, 2014, recommended rejection of the signage design, as then proposed, by a vote of 3 – 0. The LUAC, by a vote of 3 – 0, also recommended the interpretive sign be reworked for accuracy. Regarding the signage design, the LUAC recommended a reduction in the number, height, and size of all signs, removal of the California Coastal Commission and Coastal Trail emblems, and that the signs be made of natural materials (e.g., wood) instead of metal.
- e) The LUAC, at a subsequent public meeting held on January 13, 2015, voted 4 – 0 to support the project with the following recommended changes: 1) postpone installation of the California Coastal Trail emblem until the Coastal Trail alignment is recognized by the appropriate governmental agencies; 2) Only use the California Coastal Commission emblem on the internal signs, and delete the wording “Access provided in cooperation with California Coastal Commission”; 3) postpone installation of any signs referring to “Coast Ridge” or “North Coast Ridge Road & Trail” pending adoption of an Access Management Plan per the Big Sur Land Use Plan (BSLUP), with the exception of the proposed sign from the North Coast Ridge Road property owners which would replace the existing USFS sign located at the first two gates on North Coast Ridge Road, subject to USFS approval; 4) modify the trail signs as per exhibit attached; 5) eliminate both Highway 1 signs, and use smart phone apps and the Coastal Access Guide to accurately inform the public of the location of public access on the North Coast Ridge Road, rather than signs on the highway that are discouraged by the BSLUP; and 6) hold a meeting of all involved parties including, but not limited to the USFS, Coastal Commission, State Parks and property owners.
- f) The Applicant, with CCC concurrence, submitted a revised signage plan that 1) retained the California Coastal Trail and Coastal Commission emblems on all signs; 2) retained the wording “Access provided in cooperation with California Coastal Commission”; 3) retained the references to “Coast Ridge” and “Coast Ridge Trail”; 4) revised sign number 11 to incorporate changes recommended by the North Coast Ridge Road property owners, and would replace the existing USFS sign located at the first gate on North Coast Ridge Road, subject to USFS review and approval; 5) retained both signs visible on Highway 1; and 6) eliminated sign numbers 6 and 9.
- g) The project planner conducted site inspections on September 26 and October 28, 2014, and April 17, 2015, to verify that the project on the subject parcel conforms to the plans listed above.
- h) 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 PLN140729.

3. **FINDING:** **DESIGN** – The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property.

- EVIDENCE:**
- a) The location and placement of the public access improvements have been directed, reviewed, and approved by the California Coastal Commission (CCC), consistent with the CCC's regulatory authority and the policies of the Big Sur Coast Land Use Plan (LUP), and pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07 (RO). The CCC's review included siting and design considerations to ensure protection of the public viewshed, consistency with neighborhood character, and assurance of visual integrity with the surrounding area. The RO also directs that the design and content of the signage be subject to review and approval of the CCC Executive Director.
 - b) Based on input received from interested parties and recommendations made by the Big Sur LUAC, the Applicant submitted a revised signage plan. The signs would use natural, earth tone colors, except for the disabled parking (blue), trail map (multi-color), interpretive sign (multi-color), and the California Coastal Trail and Coastal Commission emblems (aluminum sleeves, and blue and white).
 - c) Regarding the California Coastal Commission and Coastal Trail emblems, the adopted RO specifically directs Ventana Inn to include the emblems on the trail signage. Also, per the RO, the Coastal Trail emblem shall remain in place until the Big Sur Coastal Trail Working Group reaches a final decision on the location of the Coastal Trail for the project area.
 - d) The project planner conducted site inspections on September 26 and October 28, 2014, and April 17, 2015, to verify that the project on the subject parcel conforms to the plans listed above.
 - e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN140729.

4. **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 15311 categorically exempts the construction or placement of minor structures accessory to existing commercial, industrial, or institutional facilities, including but not limited to on-premise signs and small parking lots.
 - b) The project involves review of the materials, colors, and design elements of retaining walls and signage associated with public access improvements directed by the California Coastal Commission. The physical improvements (including location) have already been directed, reviewed, and approved by the California Coastal Commission (CCC), consistent with the CCC's regulatory authority, and pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07. Although not within the purview of the County's action, the public access improvements include construction of approximately 2,700 linear feet of on-site trails, trail steps, approximately 500 linear feet of retaining walls, and 17 parking spaces (including 2 ADA-compliant spaces). The County's review

considers colors, materials, and design only. The trail improvements and signage would use natural colors and materials (Douglas Fir and cedar), except for the disabled parking (consistent with State law for such signs), trail map, and interpretive signs. Therefore, the project is consistent with the parameters of the Section 15311 categorical exemption.

- c) No adverse environmental effects were identified during staff review of the development application during site inspections on September 26 and October 28, 2014, and on April 17, 2015.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. The project does involve development near and within view of a scenic highway (i.e., placement of two public access signs that would be visible from Highway 1 and within the Big Sur Critical Viewshed); however, the placement of these two signs has been directed and approved by the CCC pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07, and would not result in damage to scenic resources such as trees, historic buildings, rock outcroppings, or similar resources associated with scenic highway corridors. Furthermore, the Big Sur Land Use Plan (LUP) grants exceptions to the Critical Viewshed policies regarding development (including signage) to visitor-serving uses located in the Rural Community Centers (LUP Policies 3.2.5.A, 5.4.3.L.4, 6.1.6.2, and 6.1.6.4), and the Ventana Inn properties are located within the Big Sur Valley Rural Community Center.
- e) 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 PLN140729.
- f) In addition, the CCC found that issuance of the Restoration Order to compel compliance with the Coastal Act is exempt from any applicable requirements of CEQA.

5. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors, and not the California Coastal Commission.

- EVIDENCE:**
- a) Section 20.44.070 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
 - b) California Coastal Commission (CCC): Sections 20.44.070 and 20.86.080.A of the Monterey County Zoning Ordinance (Title 20). Per Section 20.44.070, Design Approvals are not appealable to the CCC. Per Section 20.86.080.A, the Design Approval is not subject to appeal by/to the CCC because it does not involve development between the sea and the first through public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 300 feet of the top of the seaward face of any coastal bluff. In addition, per Section 20.86.080.A, any development within 100 feet of a stream or development that is permitted in the underlying zone as a conditional use (i.e.; development within 100 feet of environmentally sensitive habitat and development

within the Big Sur Critical Viewshed) was approved by the CCC pursuant to coastal development permits CDP 3-82-171 and CDP 3-82-171-A, and Restoration Order No. CCC-13-RO-07. Therefore, these appeal criteria are not within the purview of the County's action.

DECISION

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

- 1) Find the project categorically exempt per Section 15311 of the CEQA Guidelines; and
- 2) Approve a Design Approval of the materials, colors, and design of retaining walls and signage associated with public access improvements directed by the California Coastal Commission; in general conformance with the attached sketch, colors, and materials, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 30th day of April, 2015.

Jacqueline R. Onciano, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

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

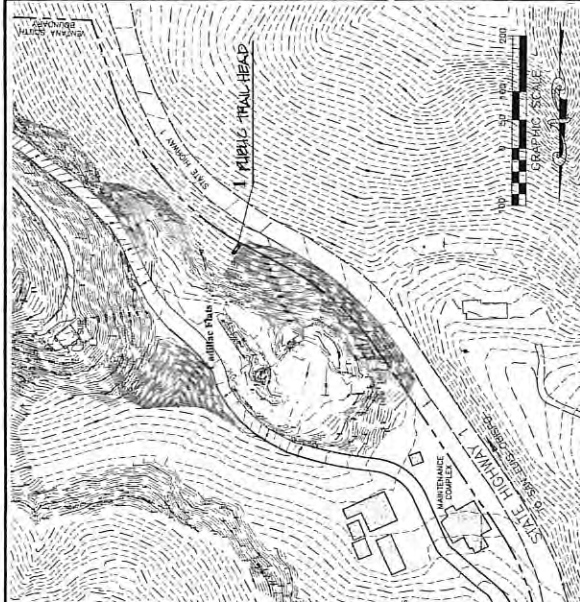
This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes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

NOTES

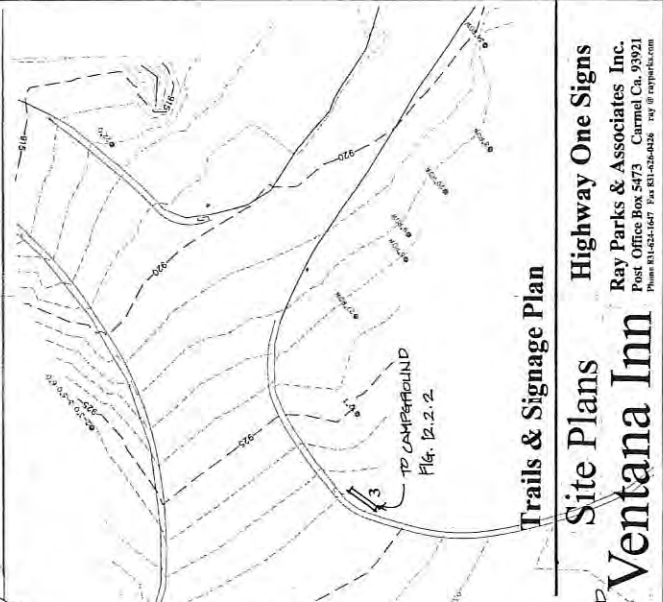
1. You may need a building permit and must comply with the Monterey County Building Ordinance in every respect.

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 Department office in Salinas.



South Site Plan



North Site Plan

PUBLIC TRAIL HEAD
 FIG. 12.2.1

1. SIGN SHALL BE VISIBLE ABOVE EXISTING FENCE. VEGETATION SHALL BE MAINTAINED SO SIGNS SHALL REMAIN VISIBLE.

NOTE:

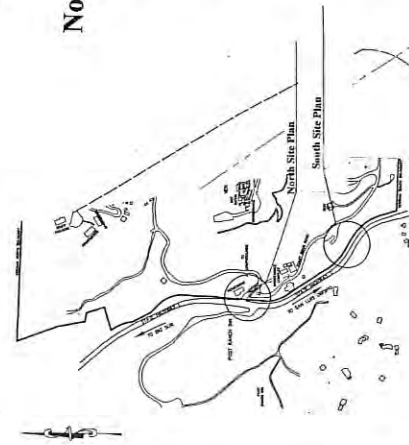
1. ANOTHER PUBLIC TRAIL HEAD SIGN SHALL BE LOCATED, SOUTH OF VENTANA INN, TO BE VISIBLE FOR NORTH BOUND TRAFFIC ON HIGHWAY ONE (SEE SOUTH SITE PLAN) THIS SHEET

Trails & Signage Plan

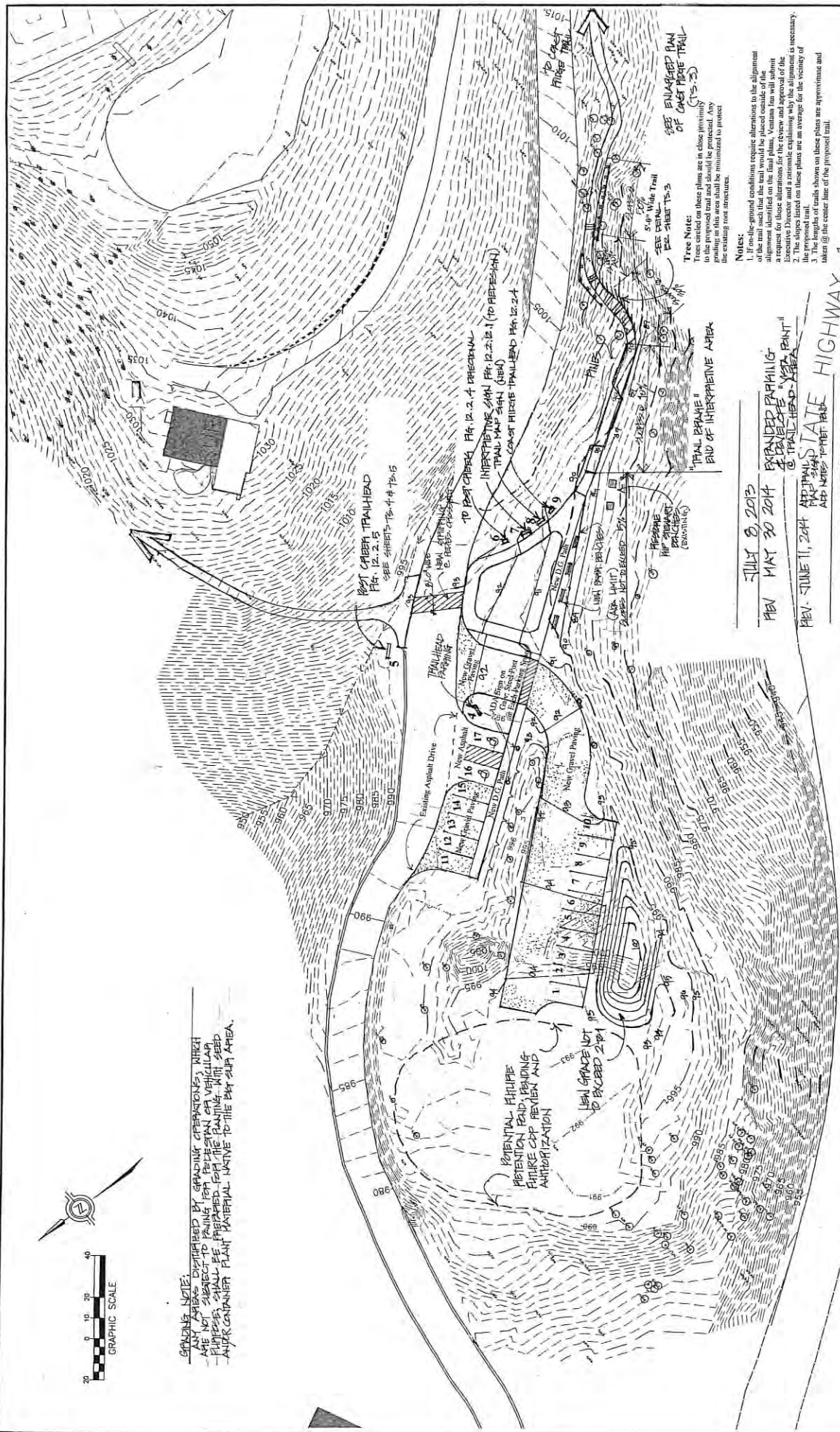
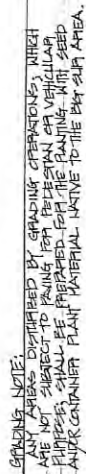
Site Plans

Ventana Inn

Highway One Signs
 Ray Parks & Associates Inc.
 Post Office Box 5473 Carmel Ca, 93921
 Phone 831-424-1447 Fax 831-424-4428 ray@rayparka.com



Vicinity Map



May 8, 2013

REV MAY 30 2014

REV. JUNE 11, 2014 ADDITION

REV. JULY 30, 2019; FOR CCC RESPONSE

Trails & Signage Plan

Cadillac Flats

Ray Parks & Associates Inc.
Post Office Box 5473 Carmel Ca. 93921
Phone 831-624-1647 Fax 831-626-0426 ray@raypark.com



MAINTENANCE BLDGS.
(EXISTING)

Post Creek Trail

0 10 20 40

20 0 10 20 40

GRAPHIC SCALE

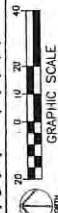
Trees circled on these plans are in close proximity to the proposed trail and should be protected. Any grading in this area shall be minimized to protect

NOTES. If on-ridge-ground conditions require alterations to the alignment of the trail such that the trail would be placed outside of the alignment identified on the final plans, Ventana Inn will submit a request for those alterations for the review and approval of the Executive Director and a rationale explaining why the alignment is necessary. The slopes listed on these plans are an average for the vicinity of the proposed trail.

The lengths of trails shown on these plans are approximate and are based on the center line of the proposed trail.

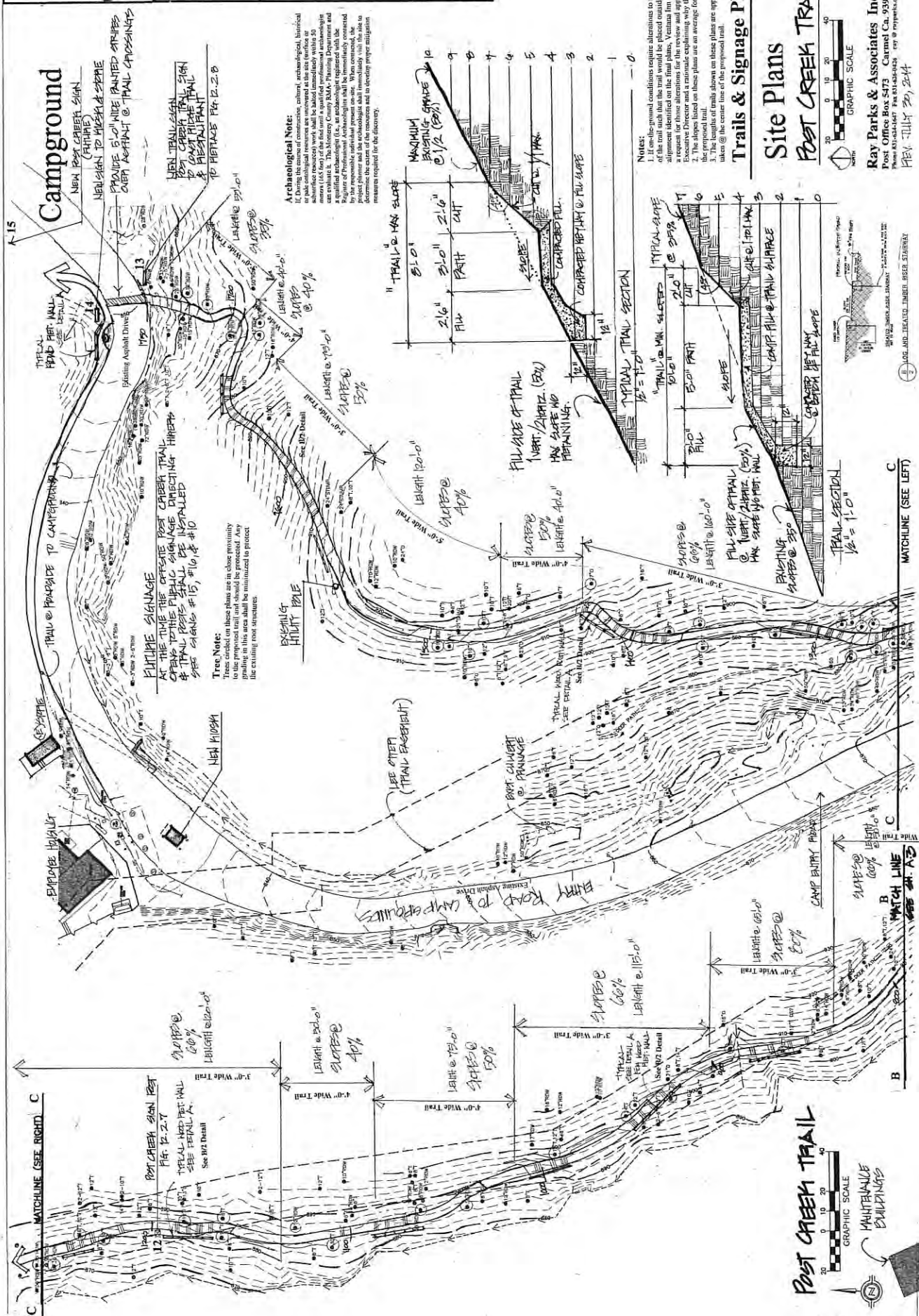
Site Plan

POST CREEK TRAIL

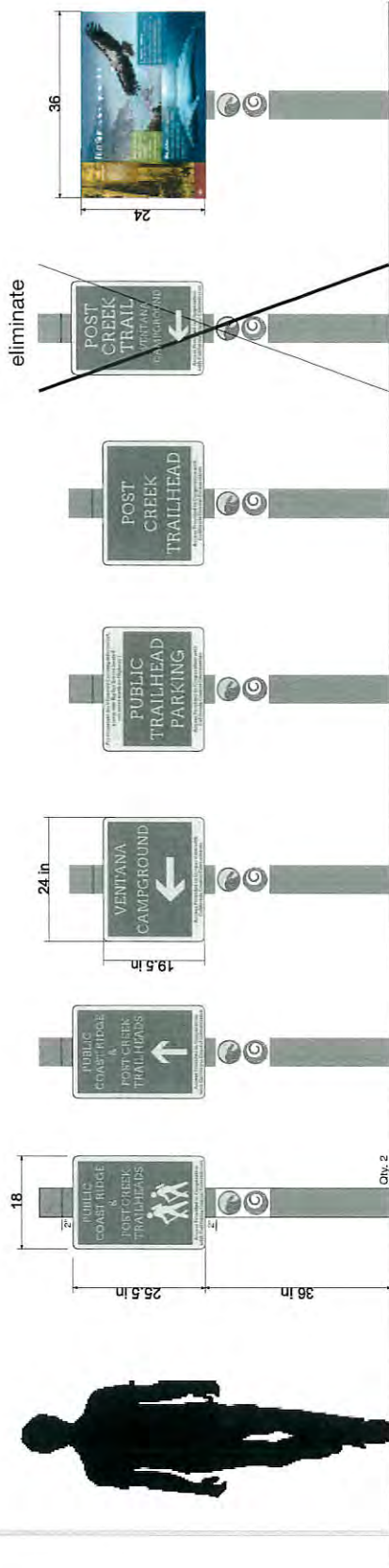


Ray Parks & Associates Inc.
Post Office Box 5473 Carmel Ca. 93921
Phone 831-624-1647 Fax 831-626-0426 ray@rayparks.com
EX-71107 30, 2044

Ventana Inn



VENTANA TRAIL SIGN EXHIBIT



1 (hwy. signs)

2

3

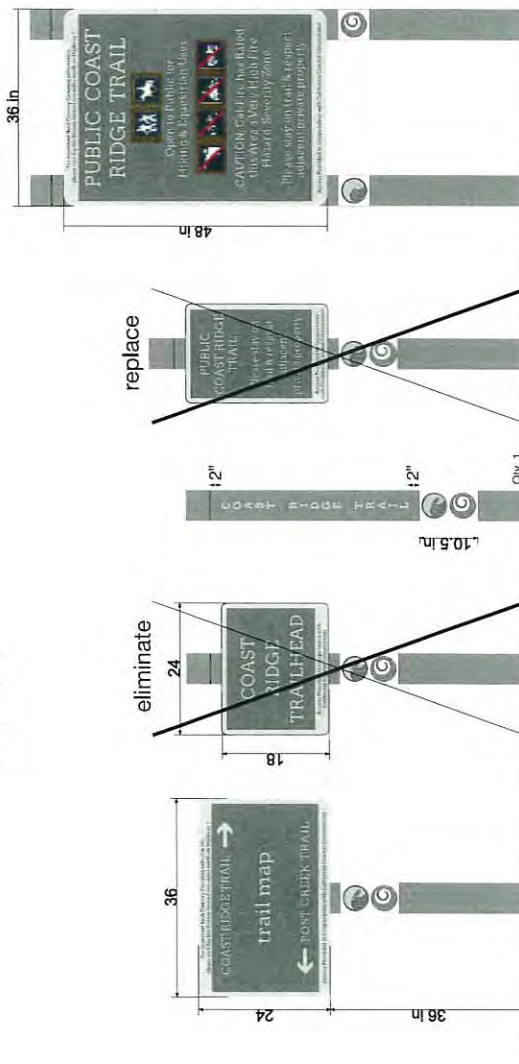
4

5

6

7

information provided on sign 8



replace

eliminate

8

9

10

11

12

13

14

holder for brochures information provided on sign 8 attached to post

see proposed sign 11

proposed sign 11

located in Campgrounds

located in Campgrounds

18" x 25 1/2" x 1" thick sandblasted cedar wood signs (flagline painted on outer border) - Qty. 3
24" x 19 1/2" x 1" thick sandblasted cedar wood signs (flagline painted on outer border) - Qty. 5
36" x 24" x 1/2" thick Interpretive Sign & Trail Map - Qty. 2 (1 each)
36" x 48" x 1" thick sandblasted cedar wood signs (flagline painted on outer border) - Qty. 1
.063 thick aluminum logo "sleeves" for trailhead sign posts - Qty. 14
4" x 4" sandblasted wood sign posts - Qty. 17
12" x 22" handcap aluminum parking signs Qty. 2

Big Sur...where giants thrive

Big Sur attracts waves of humans

Esalen, Silliman, and Ojai were the first people to inhabit the area now known as Big Sur. For thousands of years, they found shelter, created families, and harvested food on the abundant lands. In the 1800s, European-American soldiers settled here, some marrying local Indians. Since 1937, when crays completed California's scenic highway. One artists, beatniks, hippies, tourists, nature lovers and others have come to experience the spectacular beauty of this land.

Coast redwoods

are nestled in groves in protected valleys along the Pacific coast. They thrive in places where streams flow, and layers of ocean fog drip moisture onto their thirsty branches and bark. Hyperion, the tallest tree here, is about 380 feet high (116m).

California condors

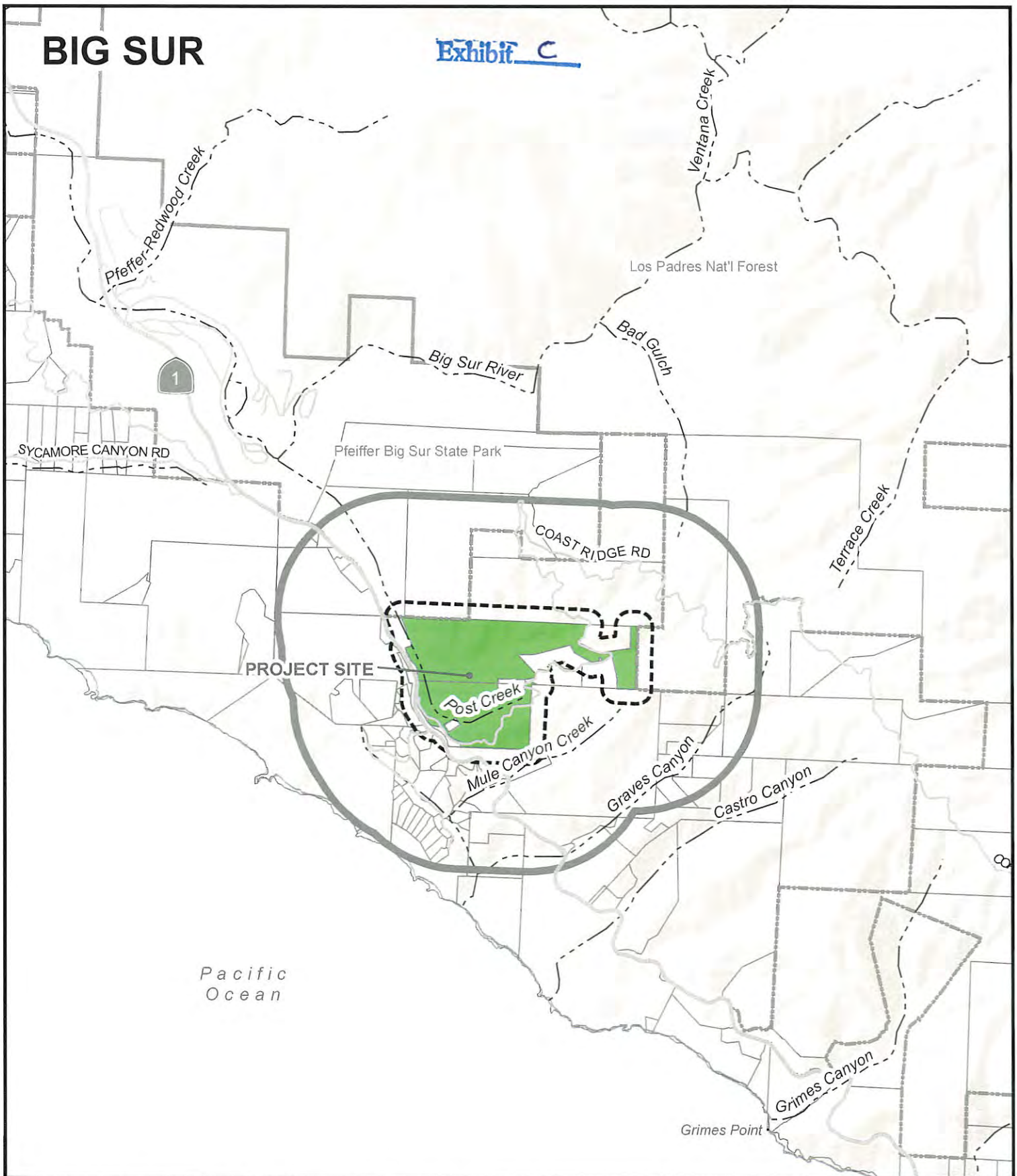
are among the largest flying birds in the world. In the 20th century, their population steadily declined until the Ventura Wildlife Society took them into protective captivity in 1987. They were re-introduced into the wild in 1992; there are now 400+ California condors in the world, with about 20 here and in the southwest. In Big Sur, they nest in redwood hollows or in cliff caves, and feed on the carcasses of dead whales and sea lions.

Blue whales

are the largest known animals on earth. Almost 100 feet long, and weighing more than 350,000 pounds, they were almost hunted to extinction. But after gaining protection from the international community in 1966, they have made a comeback. Now an estimated 10,000 blues are in our oceans, with about 2,000 plying the waters along the Big Sur coast each summer.

BIG SUR

Exhibit C

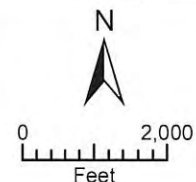


APPLICANT: WTCC VENTANA INVESTORS V LLC (VENTANA INN)

APN: 419-321-010-000 & 419-321-015-000

FILE # PLN140729

2500' Limit 300' Limit ~~~~ Water



PLANNER: SIDOR

MINUTES
Big Sur Land Use Advisory Committee
Tuesday, October 28, 2014

1. Site visit at 9:00 AM at 48123 HWY 1 BIG SUR (WTCC VENTANA INVESTORS V LLC [VENTANA INN])

ATTENDEES: Mary Trotter, Steve Beck, David Smiley, Joe Sidor, Bruce Card, Ray Parks, Martha Karstens, Ken Wright, Pamela Conant, John Ramistella

2. Meeting called to order by Mary Trotter at 9:40 am

3. Roll Call

Members Present: Mary Trotter, Steve Beck, David Smiley (3)

Members Absent: Richard Ravich, Dan Priano (2)

4. Approval of Minutes: Delayed until next meeting

A. August 26, 2014 minutes

Motion: _____ (LUAC Member's Name)

Second: _____ (LUAC Member's Name)

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

5. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

None

6. **Scheduled Item(s)**

7. **Other Items:**

- A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

- B) Announcements

None

8. **Meeting Adjourned:** 10:00 am

Minutes taken by: David Smiley

Minutes received via email October 29, 2014

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: **Big Sur**

Please submit your recommendations for this application by: **October 28, 2014**

Project Title: WTCC VENTANA INVESTORS V LLC (VENTANA INN)

File Number: PLN140729

File Type: ZONING ADMINISTRATOR

Planner: SIDOR

Location: 48123 HWY 1 BIG SUR

Project Description:

Design Approval for signage and trail improvements, associated with the installation of trail and directional/interpretive signage, and construction of approximately 2,700 linear feet of on-site trails, including steps and approximately 500 linear feet of retaining walls, construction of 17 parking spaces (including 2 ADA-compliant spaces). The trail improvements and sign posts will use natural colors and materials (Douglas Fir and cedar). The signs will use earth tone colors, except for the disabled parking, trail map, and interpretive signs. The property is located at 48123 Highway 1, Big Sur (Assessor's Parcel Numbers 419-321-010-000 and 419-321-015-000), Big Sur Land Use Plan, Coastal Zone.

Was the Owner/Applicant/Representative Present at Meeting? Yes _____ No _____

Bruce Card and Ray Parks (Principal Architect)
David C. Sweigert, Attorney and representative of Ventana Inn

Was a County Staff/Representative present at meeting? Joe Sidor (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
John Ramistella	X		Dangerous road for trail, excessive signage, to large signage, why now and not almost 30 years ago. Why handicap spaces when the trail itself is not accessible?
Pamela Conant	X		Same as above and doesn't like either Coastal Commission Logo or California Coastal trail logo on signs.
Ken Wright	X		Strongly opposes signage.

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
Signage is excessive and too large	LUP calls for signage to be natural materials, like current Ventana signs, not metal as proposed. It also specifies that signs should not be a distraction from the scenic drive in Big Sur.	Reduce number, height and size of all signs.
Signage includes California Coastal Trail logo and Coastal Commission Logo	The California Coastal Trail has not been located through Big Sur as of this date and these signs are very premature.	Remove logos

ADDITIONAL LUAC COMMENTS

The main question was "Why are we reviewing this after the fact?" There was general agreement with the public comments and especially with a major dislike of the proposed signs. The Coast Ridge Road trail has been part of public access all along and does not need further notification (ie. Signage). There is concern that the trail from the parking location to the Coast Ridge Road gate is unnecessary since the road from the parking lot goes directly to the same location.

RECOMMENDATION :

Motion by: _____ Steve Beck _____ (LUAC Member's Name)

Second by: _____ David Smiley _____ (LUAC Member's Name)

Motion: LUAC rejects the signage design which specifically advertises the Coastal Commission twice on each sign plus the California Coastal Trail which is not currently located. In addition we reject the size of signs, other than the highway signs, as too large. Mary Trotter made a second motion seconded by Steve Beck as follows: Moved that the interpretive sign be reworked for accuracy. Both motions carried unanimously.

_____ Support Project as proposed

_____ Support Project with changes

_____ Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: _____ Steve Beck, Mary Trotter, David Smiley (3)

NOES: _____ 0

ABSENT: _____ Richard Ravich, Dan Priano (2)

ABSTAIN: _____ 0

MINUTES
Big Sur Land Use Advisory Committee
Tuesday, January 13, 2015

1. **Site visit at 9:00 AM at OFF HWY 1 BIG SUR – NORTH OF GARRAPATA CREEK BRIDGE (DETELS & DOUD RANCH LLC)**

ATTENDEES: Isa Jenkins-Starkey, John Cluett, Mike Freed, Dave Sweigert, Ray Parks,
Lee Otter, Diane Otter, Arden Handshy, Mary Detels, Christine Kemp, Pam Conant, Joe
Sidor, Martha Karstens (13)

2. **Roll Call**

Members Present: Mary Trotter, Dave Smiley, Steve Beck, Dick Ravich (4)

Members Absent: Dan Priano (1)

3. **Approval of Minutes:** _____

A. December 9, 2014 minutes

Motion: Steve Beck (LUAC Member's Name)

Second: Dave Smiley (LUAC Member's Name)

Ayes: Mary Trotter, Dave Smiley, Steve Beck, Dick Ravich (4)

Noes: 0

Absent: Dan Priano (1)

Abstain: 0

4. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

N/A

5. **Scheduled Item(s)**

6. **Other Items:**

A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects
None

B) Announcements
None

7. **Meeting Adjourned:** 12:35 pm am

Minutes taken by: Dick Ravich

Minutes received via email January 13, 2015

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County RMA Planning
168 W Alisal St 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: **Big Sur**

Please submit your recommendations for this application by: **January 13, 2015**

Project Title: WTCC VENTANA INVESTORS V LLC (VENTANA INN)

File Number: PLN140729

File Type: ZA

Planner: SIDOR

Location: 48123 HWY 1 BIG SUR

Project Description:

Design Approval for signage and trail improvements, associated with the installation of trail and directional/interpretive signage, and construction of approximately 2,700 linear feet of on-site trails, including steps and approximately 500 linear feet of retaining walls, construction of 17 parking spaces (including 2 ADA-compliant spaces). The trail improvements and sign posts will use natural colors and materials (Douglas Fir and cedar). The signs will use earth tone colors, except for the disabled parking, trail map, and interpretive signs. The property is located at 48123 Highway 1, Big Sur (Assessor's Parcel Numbers 419-321-010-000 and 419-321-015-000), Big Sur Land Use Plan, Coastal Zone.

Was the Owner/Applicant/Representative Present at Meeting? Yes X No

Dave Sweigert & Ray Parks

Was a County Staff/Representative present at meeting? Joe Sidor (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Mike Freed, John Harrington, Kelly Sorenson, Robert Thompson	X		See attached letters
Chief Martha Karstens, Butch Kronlund		X	See attached letters

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
Signs	Big Sur Land Use Plan	Reduce number and size of signs
		Postpone use of CA Coastal Trail Designation
		See motion for above and more

ADDITIONAL LUAC COMMENTS

See motion attached

RECOMMENDATION:

Motion by: Dave Smiley (LUAC Member's Name)

Second by: Steve Beck (LUAC Member's Name)

 Support Project as proposed

 X Support Project with changes

 Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: Mary Trotter, Dave Smiley, Steve Beck, Dick Ravich (4)

NOES: 0

ABSENT: Dan Priano (1)

ABSTAIN: 0

Big Sur Land Use Advisory Committee
Tuesday, January 13, 2015

Project Name: WTCC Ventana Investors V LLC (Ventana Inn)

File Number: PLN140729

The Big Sur LUAC recommends via this motion:

1. Postpone installation of California Coastal Trail emblem until Coastal Trail alignment is recognized by the appropriate governmental agencies.
2. California Coastal Commission emblem to be used on internal signs only. Delete "Access provided in cooperation with California Coastal Commission". This is redundant and will allow signs to be made smaller.
3. Postpone installation of any signs referring to "Coast Ridge" or "North Coast Ridge Road & Trail" pending adoption of an Access Management Plan per the Big Sur Land Use Plan (BSLUP), with the exception of the proposed sign from the North Coast Ridge Road property owners (copy attached) which would replace the existing USFS sign located at the first two gates on North Coast Ridge Road, subject to USFS approval.
4. Modify trail signs as per exhibit attached.
5. Eliminate both Highway 1 signs entirely. Use smart phone apps and the Coastal Access Guide to accurately inform the public of the location of public access on the North Coast Ridge Road, rather than signs on the highway that are discouraged by the BSLUP.
6. LUAC encourages a meeting of all involved parties including, but not limited to USFS, Coastal Commission, State Parks and property owners.

Motion: Steve Beck

Second: Dave Smiley

Ayes: Mary Trotter, Steve Beck, Dave Smiley, Dick Ravich (4)

Noes: 0

Absent: Dan Priano (1)

Abstain: 0

From: Mike Freed <mike@postranchinn.com>
Subject: North Coast Ridge Road - Coastal Commission Settlement with Ventana / Request for a meeting
Date: December 30, 2014 at 8:37:05 PM PST
To: John.DelArroz@coastal.ca.gov
Cc: Lee Otter <lotter@coastal.ca.gov>, Semi Salmi <semi@scsadvisors.com>, John Cluett <marblepeak@wildblue.net>, Robert Thompson <RThompson@sheppardmullin.com>, "David C. Sweigert" <dsweigert@fentonkeller.com>, SidorJ@co.monterey.ca.us

Dear John - As a part-time resident of Big Sur since 1982 - my home is located on the North Coast Ridge Road - and as the Managing Partner of the Post Ranch Inn since 1992, I am contacting you as a homeowner and business owner with strong ties to the Big Sur community. I worked with John Cluett, another property owner on North Coast Ridge Road, and the USFS in negotiating and documenting the Non-Exclusive Limited Easement Deed for a Road and Trail, dated May 21, 1993, between the US Forest Service and the North Coast Ridge Road property owners (the "Limited Easement"). The Limited Easement accomplished two goals: first, to provide reciprocal easement rights to the USFS and the property owners, and second, under the authority of the USFS to provide public hiking and equestrian use on North Coast Ridge Road. A copy of the Limited Easement is attached.

Let me first reiterate that I, as well as most of the property owners on North Coast Ridge Road, are supportive of the public hiking and equestrian day use on North Coast Ridge Road, provided that public access of North Coast Ridge Road is properly managed. For example, at Post Ranch, we explain to our guests that when hiking on North Coast Ridge Road, that the road is privately owned, to stay on edge of the road, and to be careful of the vehicles driving on the road. We also explain that mountain bikes and other vehicles are not permitted on the road, and that fire is a real danger in Big Sur and not to smoke or light a fire when on the road or in the wilderness area. In addition, we urge our guests to give themselves enough time to get off the road before dark and to be aware of wildlife and rattle snakes on the road.

My concern with the settlement with Ventana to: 1) build a parking lot at Cadillac Flats, 2) build a trail from the parking lot at Cadillac Flats to North Coast Ridge Road, and 3) construct signage on Ventana's property and on Highway 1, violates the terms of the Limited Easement, which is the controlling document by which the public enjoys hiking and equestrian access over North Coast Ridge Road. In addition, the settlement agreement with Ventana is inconsistent with the Big Sur Land Use Plan ("BSLUP") and the Monterey County Implementation Ordinance, that governs public access over private property; and most of the first 5 miles of North Coast Ridge Road is owned privately. The purpose of this email is to request a meeting with the California Coastal Commission to be held prior to the LUAC meeting in Big Sur scheduled for January 13th. My understanding is that you and Semi Salmi of Ventana have spoken about the North Coast Ridge Road property owners concerns and are open to meeting with us.

The Limited Easement names the USFS as the authorized agency responsible for managing North Coast Ridge Road on behalf of itself, its licensees and the general public, although no access management plan has yet been adopted. In addition, California State Parks, one of the property owners on North Coast Ridge Road, is governed by the terms of the Limited Easement, and it is my understanding that neither the USFS nor California State Parks have consented to the agreement with Ventana and the California Coastal Commission to increase/promote public access on North Coast Ridge Road. What is particularly surprising about the settlement with Ventana to increase/promote public access on North Coast Ridge Road, is that neither Ventana nor the California Coastal Commission are parties to the Limited Easement, and that the USFS, the only agency that arguably has the authority to promote public access on North Coast Ridge Road, has not consented to the settlement agreement with Ventana.

The only Coastal Commission contact the North Coast Ridge Road property owners have had concerning the settlement agreement with Ventana was with Lee Otter. In our meeting with Lee, and in subsequent conversations, we have expressed our concerns about the Coastal Commissions agreement with the Ventana. A brief description of our concerns are as follows:

1. Before any signs promoting public access on North Coast Ridge Road are installed on Ventana's property, an access management plan over North Coast Ridge Road per the BSLUP and the Monterey County Implementation ordinance must be adopted. see BSLUP sections 6.1, 6.1.2, 6.1.3 and portions of 6.1.4. see also Monterey County Implementation Ordinance at section 20.145.150. This section explicitly requires that an access management plan be approved before opening or expanding public access over private property. It is very clear that the access management plan must be consistent with the Public Access Criteria listed in Section 20.145.150.E.3, and the agreement with Ventana does not comply with such criteria.
2. Signs on Highway 1 should be discouraged as inconsistent with the BSLUP. see BSLUP section 4.1.3.B. In addition, a key tenant of the Big Sur Coast Highway Management Plan is the rigorous avoidance of more sign clutter along Highway 1, and provides in part: "Requests for new signs within the Highway 1 right-of-way will be evaluated for merit based on whether they meet a need for safe operation or orderly movement of traffic. Requested signs determined to be non-essential may only be installed with consensus agreement from affected stakeholders."
3. No overnight parking at Cadillac Flats should be allowed as this would increase unsupervised overnight camping on North Coast Ridge Road, thereby increasing the risk of fire.
4. A public hearing should be required, not just for sign design, but to approve a public trail to North Coast Ridge Road which traverses over a 30% slope and is not ADA compliant. In addition, a public hearing should be required to approve the parking lot at Cadillac Flats, as this may create an additional public risk from the additional vehicles exiting Ventana onto Highway 1, given that the Post Ranch entrance is directly across from Ventana just below the blind crest of a hill.
5. USFS approval is required before the Coastal Commission can promote increase public access on North Coast Ridge Road, as this is the only public agency that represents the public, with respect to public access, per the terms of the Limited Easement. This approval must be obtained per the terms of an access management plan. Without such access management plan approved by the USFS and the property owners, public access for hiking and equestrian use cannot be increased nor promoted, and if it is, without the USFS and the property owners consent, public access for hiking and equestrian use may be placed in jeopardy as an "overburdening" of the Limited Easement.
6. California State Parks must be consulted with respect to public access on North Coast Ridge Road, as California State Parks is one of the property owners on North Coast Ridge Road. Increased public access will create additional cost and liability to State Parks, and as such State Parks must also approve the agreement with Ventana and be a party to the access management plan.
7. Any signs to be installed by Ventana must be consistent with 1) the Limited Easement and 2) the existing USFS signs that have been installed at the entrance gate and at the second gate on North Coast Ridge Road. See attached. The Limited Easement addresses the sign issue, and the USFS is the responsible agency re signage for North Coast Ridge Road and all signs related to public use of North Coast Ridge Road must clearly provide that all vehicles, including mountain bikes, bicycles and ATVs operated by the public are prohibited on the road, and that no firearms may be discharged on or across the road. Most importantly, no signs with a reference to "Coast Ridge" should be constructed until an access management plan over North Coast Ridge Road has been adopted and the signs should clearly state "North Coast Ridge Road" rather than just Coast Ridge. Lastly, it is inappropriate to place an emblem promoting North Coast Ridge Road as part of the California Coastal Trail system as North Coast Ridge Road is not part of the California Coastal Trail system.

Since most overnight hikers and backpackers enter the wilderness via a USFS Wilderness Permit system and/or come in contact with a Ventana Wilderness Volunteer, State Park or USFS staffer, this serves as a de facto public access management plan as hikers and backpackers learn about the risks, including the fire risk in camping overnight in the wilderness. If the settlement with Ventana is implemented without an access management plan being adopted for North Coast Ridge Road, especially if overnight parking is allowed in the new parking lot, there is no management of visitor use in a way that helps the resource management entities cope with severe overuse problems, not just on North Coast Ridge Road, but at Sykes Hot Springs and in the Ventana Wilderness. As such, the Coastal Commission should be encouraging all wilderness/overnight backpacker use to enter by way of the Big Sur Station, where there is a major improved parking area, a formal trailhead and an established visitor contact system already in place and not at North Coast Ridge Road where none of this exists and the hiking public must share the use of a narrow road with vehicles (mostly trucks and 4 wheel drive SUVs) driven by the USFS, its licensees and the property owners.

When we met with Lee Otter, there was a general consensus that the USFS signs at the two gates on North Coast Ridge Road should be redesigned, and that we should all work together to come up with a signage plan that eliminates any confusion with respect to public access on North Coast Ridge Road. I urge you to talk to Lee about our suggestions with respect to signage, and some of the other issues we raised, the most important of which is that before public access can be promoted on North Coast Ridge Road, we need to work with the USFS, State Parks, and the Coastal Commission in adopting an access management plan. The reason and need for an access management plan is primarily to assure the property owners and the Big Sur community that increased public use will not increase the risk of fire, and in addition to help protect those hiking on North Coast Ridge Road from the dangers of hiking on a road that is used by vehicles (and equestrians) in the wilderness. In addition, if public access is increased on North Coast Ridge Road, without the adoption of an access management plan, this will create an "overburdening" of the public's right to equestrian and hiking access over private property, per the terms of the Limited Easement, which in fact could jeopardize the public's right to continue to hike and ride a horse on North Coast Ridge Road.

We recognize that we need to create proper signage to avoid confusion that exists on North Coast Ridge Road and are open to discussing how best to manage public access on North Coast Ridge Road consistent with the Limited Easement, the BSLUP and Monterey County Implementation ordinance. Our hope is to get all of the parties together who are impacted by the Ventana agreement: Coastal Commission, State Parks, USFS, Ventana and the property owners - with the goal to try and reach an agreement that continues to allow public hiking and equestrian access on North Coast Ridge Road, with additional signage, and managed in a way to minimize fire, safety and environmental degradation along North Coast Ridge Road, and consistent with the terms of the BSLUP.

Please let me know if you and others from the Coastal Commission, including Lee Otter, are able to meet with some of the North Coast Ridge Road property owners prior to the LUAC meeting on January 13th.

My understanding is that Semi is available to meet with us as well. We should also invite a representative from State Parks and the USFS to join us, but if they are unavailable, I suggest that we go forward with the meeting. I also suggest that the Coastal Commission postpone the meeting with LUAC until we are able to reach an agreement with all of the concerned parties.

Thank you for your cooperation and assistance in setting up the meeting.

Best regards,
Mike

Mike Freed

PASSPORT RESORTS

2056 JEFFERSON ST • SAN FRANCISCO, CA 94123

p. 415.788.7870 x106

www.passportresorts.com



Submitted at Big Sur
LUAC 1/13/15 meeting

John Harrington
Ridge Road
January 12, 2015 at 2:15 PM

I am in agreement with Mike Freeds letter about the road issues.
Sent from my iPhone

Kelly Sorenson
Signs at Ventana Inn and Highway 1
January 12, 2015 at 2:53 PM

Dear members of LUAC,

Ventana Wildlife Society is a landowner along the North Coast Ridge Road and has been actively engaged in the recovery of the California condor and other endangered species for many years. The condor recovery effort has primarily relied upon the use of this property to release and facilitate ongoing support for free-flying condors. As I understand you will be considering sign options at a meeting tomorrow, January 13, 2015, prompted by the Consent Orders between the California Coastal Commission and Mr. Sean Parker. We went on record in 2013 in support of these consent orders and remain in support. However, as we are also a party to the Non-Exclusive Limited Easement Deed for a Road and Trail, dated May 21, 1993, with the US Forest Service, we are concerned about these new sign designs and placement. Our specific concerns were captured well in a letter received by you, dated January 6, 2015 and written by Mr. Freed and we therefore urge you to fully consider the suggestions therein so as to avoid conflict with this easement.

Sincerely,
Kelly Sorenson
Executive Director
Ventana Wildlife Society
19045 Portola Drive, Ste. F1
Salinas, CA 93908
831-455-9514
www.ventanaws.org
www.mycondor.org

From: Robert Thompson <RThompson@sheppardmullin.com>
Subject: North Coast Ridge Road
Date: January 5, 2015 at 5:58:40 PM PST
To: "John.DelArroz@coastal.ca.gov" <John.DelArroz@coastal.ca.gov>
Cc: "Mike Freed (mike@postranchinn.com)" <mike@postranchinn.com>

Dear Mr. DelArroz:

I am a landowner on the North Coast Ridge Road and am writing to confirm and reinforce the concerns expressed by Michael Freed in his email to you of December 30 regarding implementation of the Settlement Agreement between the Coastal Commission and Ventana Resort, et al. In addition to the points Mike made, I would like to highlight a legal point that seems to have been overlooked in discussions regarding the increased pedestrian and equestrian use of the Road that would result from certain aspects of the Settlement.

North Coast Ridge Road crosses a number of parcels of private property. In order to clearly establish the rights of the Forest Service and others to pass over these parcels, the 1993 Easement (referred to in Mike's email) set forth certain rights on the part of the Forest Service (the grantee under the Easement) and specified licensees, as well as pedestrians and equestrian users. All rights of the public derive from that 1993 Easement, which provides that if the Forest Service "desires to substantially increase its current [as of 1993] use of the Road," including access by its licensees, other approved parties, or the public, it shall obtain the "prior written consent" of the private property owners. The planned use of the Road facilitated by the Settlement Agreement is clearly an increase of the 1993 level of use and today's current use, and therefore would violate the Easement.

In addition, well established common law concepts of overburdening of easements limit the use of an easement to those express rights set forth or reasonably envisioned by the easement grant. The uses envisioned and encouraged by the proposed implementation of the Settlement Agreement would clearly violate these limitations.

As Mike has stated, as affected landowners, we have no problem with the uses envisioned by the Easement; however, we are very much concerned about unregulated overuse of the Easement, which will increase the danger overnight camping and risk of fire.

We very much appreciate your consideration of our concerns.

Sincerely, Bob Thompson



Forty years of Fire Service

January 11, 2015

Dear Members of LUAC:

This letter is to express some of my concerns from the Big Sur Volunteer Fire Brigade regarding the proposed signage directing yet more people to the area of the North Coast ridge road, (NCRR).

- #1. There will be no registration of hikers going into the back country; this information could be vital in order to locate lost and or injured hikers.
- #2. Because there will be no registration, hikers will not be getting information on the appropriate use of campfires, the need for a permit, and if they are even allowed. By setting up another "trail head" this will be funneling yet more people into extremely fire prone areas. These areas, unlike the Pine Ridge trail have homes near the road.
- #3. We already have problems with hikers building campfires off areas like Plaskett Ridge Road and I see this as the same attractive nuisance with potentially devastating consequences.
- #4. The condition of the NCRR is in such bad shape, recently impassable, that we won't have any guarantees we could even access a victim or a campfire. The BSVFB will be the ones called out to handle any of these very possible scenarios increasing risk of Firefighter safety.
- #5. With the increased hiker traffic there could be an additional potential for robberies to the homes located alongside the road.
- #6. There will need to be trails carved on the side hill right above the parking area potentially causing erosion and the introduction of invasive species where there already exists a perfectly good road that people can walk on to the start of the NCRR
- #7. Who will monitor and patrol this back country parking lot to prevent overnight, or longer, camping, and clean it up.
- #8. There will be more signs on the highway which is discouraged by the Big Sur Land Use Plan.
- #9. Are rest room facilities going to be available, if so who will maintain them. Will water be available?

Sincerely,

Martha Karstens, Chief

Butch Kronlund

Design Approval for signage, 17 parking spaces and trail improvements @ Ventana Inn
January 12, 2015 at 6:25 PM



Dear Mary-

I'm writing you to register my disapproval of the proposed signage, improvements to parking at Cadillac Flats and construction of a new trail leading from Ventana Inn's Campground to the first gate accessing the North Coast Ridge Road. There are a number of good reasons for not allowing these developments to occur including:

1. The net result of these improvements will be an intensification of usage of the NCRR which should not be allowed without the USFS creating an Access Management Plan. This plan would presumably factor in current use of the resource, availability of basic services the public utilizing the NCRR would need, issues arising around fire safety and from a larger perspective, how intensification of usage will impact an already over run Back Country. (Sykes Hot Springs)
2. The idea of adding more signage on Highway 1 in order to announce to the public this new opportunity to park and hike is exactly what the Highway Management Plan seeks to address. In my opinion, no new signs announcing this park and hike opportunity should be allowed.

Having said the above, of greater concern to me at the moment is what appears on the surface to be the Coastal Commissions relentless disregard for the Big Sur Community Process for Aligning the California Coastal Trail. There is little doubt that the improvements sought by the applicant above, if completed, will one day be hailed as an anchor point for the California Coastal Trail by the Commission and or the State Coastal Conservancy. All without any community input or any regard for what is appropriate in one of Big Sur's more heavily populated residential neighborhoods.

Sincerely,
Butch

Butch Kronlund, President
Big Sur Coast Property Owners Association
48280 Highway 1
Big Sur, CA 93920
Cell - 831-595-7221
Office - 831-667-0332
Fax - 831-667-2906

LOS PADRES NATIONAL FOREST
MONTEREY RANGER DISTRICT
GRANTORS - NO. COAST RIDGE ROAD EASEMENT DEED
February 26, 1995

Melvin Kelm
Pfeiffer Ridge #7
Big Sur, CA 93920

Mr. & Mrs. P. Ballard
293 Molino
Mill Valley, CA 94941

Mr. & Mrs. A.C. Kutcher
12052 Linda Flora
Ojai, CA 93023

Paul Witt
Junger Family Trust
11828 La Grange Avenue
Los Angeles, CA 90025

Robert A. Thompson
c/o Pettit & Martin
101 California Street
San Francisco, CA 94111

Michael S. Freed, Attorney at Law
Griffinger, Levinson, Freed & Heinemann
One Market Plaza, Stewart Street Tower
San Francisco, CA 94105-1415

Ventana Securities, Inc.
Alan P. Delfino
P.O. Box 1073
Freedom, CA 95019

Michael P. Marquard
312 W. Carmel Valley Road
Carmel Valley, CA 93924

Joseph M. Steinfeld
850 Main Street
Redwood City, CA 94063

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

Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076

Jane Ellen Sharp
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076



William F. Rodgers
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076

Ms. Caroline Rodgers
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076

John M. Rodgers
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076

Jean R. Ware
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076



Ann C. Rodgers
c/o Joseph A. Rodgers
45 Brushwood Lane
Watsonville, CA 95076

Donald A. Petkus
P.O. Box 425
Carmel Valley, CA 93924

Gerald R. Petkus
c/o Donald A. Petkus
P.O. Box 425
Carmel Valley, CA 93924

Salvatore Lucido
c/o Donald A. Petkus
P.O. Box 425
Carmel Valley, CA 93924

Mr. & Mrs. George Michaud
Box 1117
Aptos, CA 95001



Mr. George Koenig
880 Eureka Canyon Road
Corralitos, CA 95076

John K. Harrington, Trustee
60 Paseo Hermoso
Salinas, CA 93908

Mr. Ross Nissen
c/o John K. Harrington
60 Paseo Hermoso
Salinas, CA 93908

Mary Trotter
Box 132
Big Sur, CA 93920

Cyril Chappellet
1581 Sage Canyon Road
St. Helena, CA 94574

APPROVED

Office of the General Counsel

By Richard T. Lynn

REEL 2983 PAGE 719

RECORDED AT REQUEST OF

USDA - Forest Service

AUG 19 1 14 PM '93

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

56588

RECORDING REQUESTED BY 9/24/93
USDA - Forest Service

R	20
M	1
RF	18
TC	17
T	54

WHEN RECORDED MAIL TO:
Los Padres National Forest
6144 Calle Real
Goleta, CA 93117
ATTN: Jytte Kronberg

Recorded in counterparts.

NON-EXCLUSIVE LIMITED EASEMENT DEED FOR A ROAD AND TRAIL

THIS EASEMENT DEED, dated this 21st day of May, 1993, is from:

MELVIN K. KELM, an unmarried man,
Owner of land described in Reel 953, Page 30,
APN 419-031-010;

PHILIP L. BALLARD and ROBERTA A. BALLARD, husband and wife,
Owners of land described in Reel 561, Page 1144,
APN 419-031-012;

ALBERT C. KUTCHER and FRANCES E. KUTCHER, husband and wife,
Owners of land described in Reel 2524, Page 0068,
APN 419-031-011;

FRANCES E. KUTCHER, Trustee for the Albert C. Kutcher, D.D.S., Inc.,
Profit Sharing Plan,
Owner of land described in Reel 2524, Page 0079,
APN 419-031-013;

THE BANK OF CALIFORNIA, as Trustee of the Emily T. Flory Irrevocable
Unitrust, dated May 5, 1992.
Owner of land described in Reel 2814, Page 1263,
APN 419-031-005;

PAUL JUNGER WITT, a married man, as his sole and separate property, and
PAUL JUNGER WITT, Trustee of the Paul Junger Witt Family Trust of 1988,
Owner of land described in Reel 2399, Page 0834, and Reel 2721, Page
181,
APN 419-031-025 and APN 420-011-034;

ROBERT A. THOMPSON, a single man,
Owner of land described in Reel 1956, Page 848,
APN 419-031-017;

MARY TROTTER, owner of easement across APN 419-031-017, abutting subject
right-of-way, which provides access to Parcel 419-031-008, owned by Mary
Harrington Trotter and John K. Harrington.

Correct as to consideration, description and conditions.
Richard T. Lynn 8/6/93
Forest Supervisor Date

MICHAEL S. FREED, a married man, as his sole and separate property,
Owner of land described in Reel 1696, Page 215,
APN 419-031-026;

VENTANA SECURITIES, INC., a California corporation,
Owner of land described in Reel 2660, Page 1161,
APN 420-021-003;

MICHAEL P. MARQUARD, a single man,
Owner of land described in Reel 1373, Page 0659,
APN 420-021-004;

JOSEPH M. STEINFELD, an unmarried man,
Owner of land described in Reel 1560, Page 0851,
APN 420-021-005;

JOHN STOCKTON CLUETT, a single man,
Owner of land described in Reel 2169, Page 1130,
APN 420-021-029;

JANE ELLEN SHARP, a married woman, as her sole and separate property, as to
an undivided 1/2 interest; JOSEPH ARTHUR RODGERS, WILLIAM FORSYTH RODGERS,
JEAN RODGERS WARE, CAROLINE RODGERS, aka CAROLINE RODGERS SHUTT, ANN
CORDELIA RODGERS, and JOHN MICHAEL RODGERS, each having an undivided 1/12
interest,

Owners of land described in Reel 2169, Page 1132,
APN 420-021-10;

DONALD A. PETKUS, a married man, as his sole and separate property,
SALVATORE LUCIDO, a single man, and GERALD R. PETKUS, a single man, each as
to an undivided 1/3 interest,

Owners of land described in Reel 2169, Page 1134,
APN 420-021-011;

GEORGE P. KOENIG, an unmarried man, as to an undivided 2/3 interest, and
GEORGE K. MICHAUD and MICHELLE M. EHRET, husband and wife, as Joint
Tenants, as to an undivided 1/3 interest,

Owners of land described in Reel 1315, Page 204,
APN 420-021-016;

JOHN K. HARRINGTON, Trustee of the John K. Harrington Family Living Trust
Agreement, executed January 2, 1981, and ROSS NISSEN, a married man,
Owners of land described in Reel 1479, Page 1210,
APN 420-021-014, and

WALTER S. TROTTER and MARY TROTTER, husband and wife, as Joint Tenants, as
to an undivided 50% interest, WALTER S. TROTTER and MARY TROTTER, husband
and wife, and CYRIL SCOTT CHAPPELLET, an unmarried man, as to an undivided
50% interest, as Tenants in Common,

Owners of land described in Reel 2467, Page 1026,
APN 420-021-025.

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

WITNESSETH;

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

MOUNT DIABLO MERIDIAN

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

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

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

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

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

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

Grantor, whose name has been provided to Grantee, of the renewal or issuance of the special use authorization and the name of the successor.

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

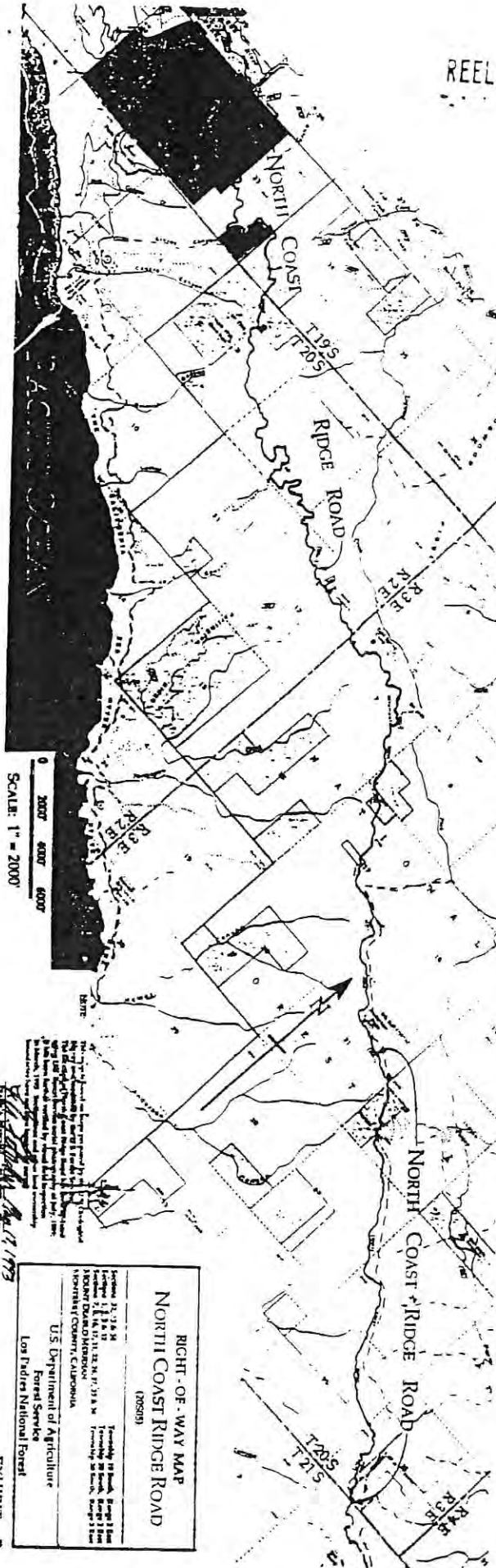
11. Each of the parties comprising Grantor hereby grants an easement for vehicular access and utility purposes over his or her own lands, to each other party comprising Grantor who owns property contiguous with the Road (or, who has an easement over property contiguous with the Road), to the extent necessary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

EXHIBIT A

ANDERSON PEAK
MONTEREY RANGER DISTRICT

<u>List of Electronic Site Permittees (Licensees)</u>	<u>Authorized Use</u>
COUNTY OF MONTEREY P.O. Box 1883 Salinas, CA 93901	812-Transmitting & Receiving- within FAA bldg) Single user
FEDERAL AVIATION ADMINISTRATION (bldg. owner) P.O. Box 92007 World Way Postal Center Los Angeles, CA 90009	822-Telephone lines-rural (Air Navigation Vortac Facility) Single user
PACIFIC BELL (bldg. owner) Attn: Lease Administrator 2 N. Second St., Rm. 675 San Jose, CA 95113	822-Telephone lines-rural (Microwave communications facility) Single user
STATE DEPT. OF HIGHWAY PATROL P.O. Box 898 Sacramento, CA 95804	812-Transmitting & Receiving (Radio-electronic equipment within FAA bldg.) Single user
ZEN Center 300 Page Street San Francisco, CA 94102	820-Telephone & Telegraph (Radio-electronic equipment within PacBell bldg.) Single user
MONTEREY COUNTY WATER RESOURCES AGENCY P.O. Box 930 Salinas, CA 93902	812-Transmitting & Receiving (Radio-electronic equipment for cloud seeding) Single user
STATE OF CA, DEPT. OF TRANSPORTATION P.O. Box 160048 Sacramento, CA 95816	812-Transmitting & Receiving (Radio-electronic equipment within FAA bldg.) Single user
DEPT. OF THE ARMY Los Angeles District, Corps of Engineers P.O. Box 2711 Los Angeles, CA 90053	621-Research Operation of Image Orthicon Camera & related facilities within FAA's VORTAC site. Single user

jk-4/06/93



This map was prepared by the U.S. Department of Agriculture, Forest Service, Los Angeles National Forest, and is subject to the provisions of the National Forest Management Act of 1966, as amended. The map is not to be used for any purpose other than that for which it was prepared.

J. J. [Signature] 4/17/73

RIGHT-OF-WAY MAP NORTH COAST RIDGE ROAD (20593)	
Section 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	Tract 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
U.S. Department of Agriculture Forest Service Los Angeles National Forest	

EXHIBIT B

EXHIBIT C

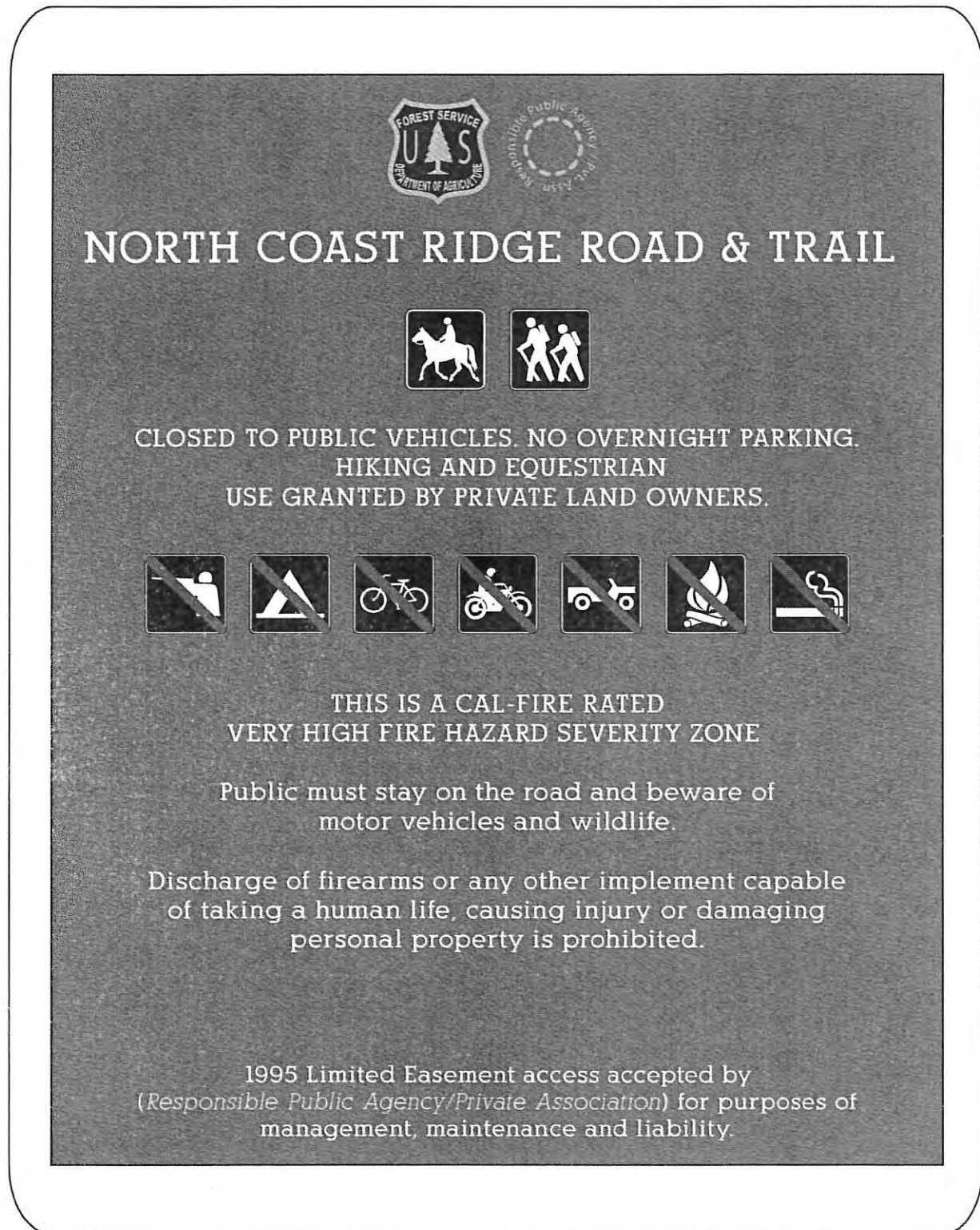
ROAD AND TRAIL EASEMENT
for
NORTH COAST RIDGE ROAD
--
MONTEREY COUNTY, CALIFORNIA

A twenty-foot wide right-of-way, 10 feet each side of existing center line, across parts of sections 32, 33, and 34, Township 19 South, Range 2 East, sections 1, 2, 3, and 12, Township 20 South, Range 2 East, and sections 7, 8, 16, 17, 21, 22, 26, 27, 35, and 36, Township 20 South, Range 3 East, Mount Diablo Meridian, in the County of Monterey, State of California, as shown on the attached map entitled: "RIGHT-OF-WAY MAP - NORTH COAST RIDGE ROAD (20S05)" and marked Exhibit "B", the right-of-way being more fully described as follows:

BEGINNING on the southern boundary of T. 19 S. at a point in the vicinity of the corner common to sections 32 and 33, T. 19 S., R. 2 E., in section 33, Township 19 South, Range 2 East, thence;

- (1) in a northerly direction through sections 33 and 32, Township 19 South, Range 2 East,
- (2) in a southeasterly direction through sections 32, 33 and 34, Township 19 South, Range 2 East, to the north boundary of Township 20 South, Range 2 East,
- (3) in a southeasterly direction through sections 3, 2, 1 and 12, Township 20 South, Range 2 East, to the west boundary of Township 20 South, Range 3 East,
- (4) in a southeasterly direction through sections 7, 8, 17, 16, N1/2 of 21, 22, 27, 26, 35, and 36, Township 20 South, Range 3 East, to the south boundary of Township 20 South, Range 3 East, the point of TERMINATION.

END OF DOCUMENT



NOTES:

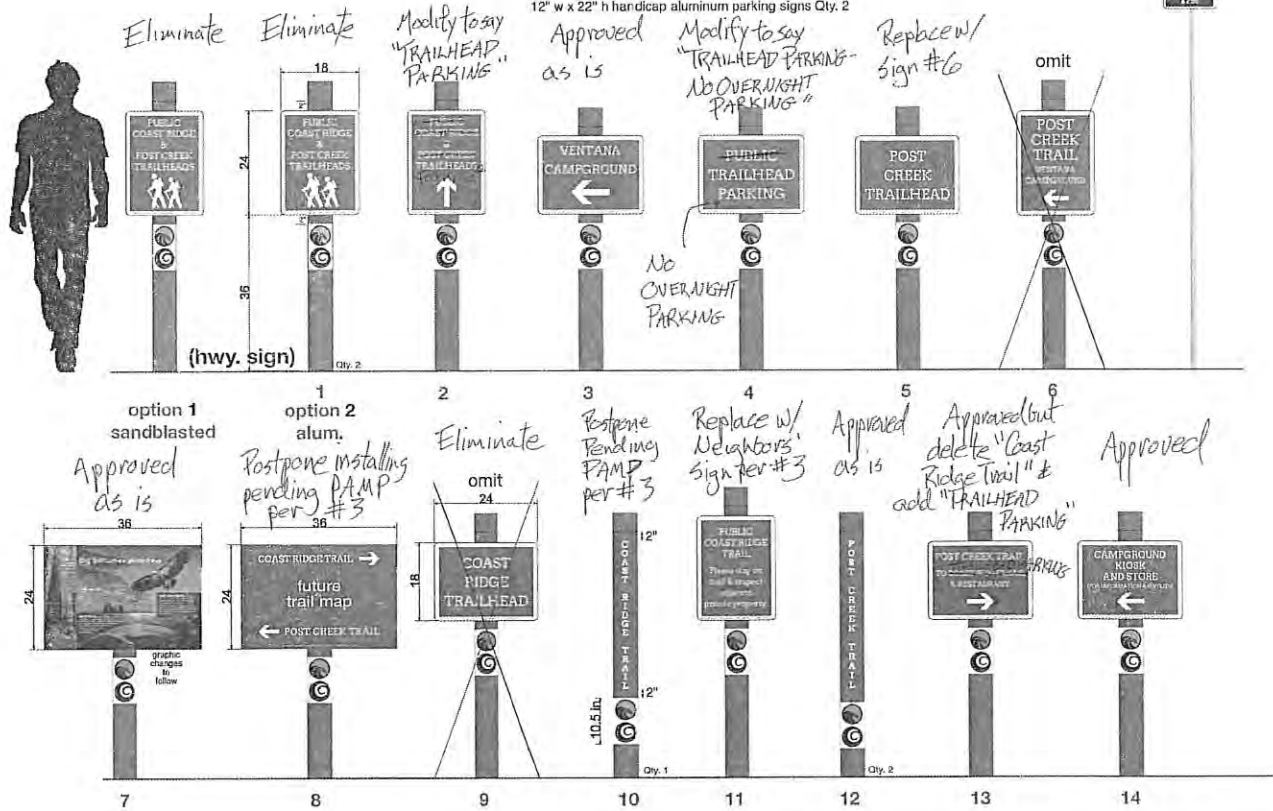
1. All references to California Coastal Trail, Coastal Commission should be removed.
2. Eliminate all signs on Hwy 1.
3. Add to sign at Cadillac Flats "No Overnight parking"

MARLOW & DANCUNAS

TRAIL SIGN EXHIBIT

Submitted to Big Sur LUAC 1/13/15 meeting

Sign 1 / 18" x 24" x 1/4" thick anodized aluminum w/ giclee print background & text - Qty. 2
 18" x 24" x 1" thick sandblasted cedar wood signs (tagline painted on outer border) - Qty. 10
 Sign 8 / 36" x 24" x 1/4" thick anodized aluminum w/ giclee print background & text - Qty. 1
 5 1/2" w x 10 1/2" h x .063 thick aluminum "sleeves" for trailhead sign posts - Qty. 14
 4" x 4" sandblasted wood sign posts - Qty. 14
 12" w x 22" h handicap aluminum parking signs Qty. 2



Big Sur...where giants thrive

Big Sur attracts waves of humans

Esalen, Silliman, and Ohlone were the first people to inhabit the area now known as Big Sur. For thousands of years, they found shelter, created families, and foraged food on the abundant lands. In the 1800s European-American settlers settled here, some marrying local Indians. Since 1937, when crews completed California's Scenic Highway, Big Sur artists, beatniks, hippies, tourists, nature lovers, and others have come to experience the spectacular beauty of this land.

Coast redwoods

are nestled in groves in protected valleys along the Pacific coast. They thrive in places where streams flow, and layers of ocean fog drip moisture onto their thirsty branches and bark. The tallest tree in the area is about 380 feet high (115m).

Blue whales

are the largest known animals on earth. Almost 100 feet long, and weighing more than 350,000 pounds, they were almost hunted to extinction. But after gaining protection from the international community in 1966, they have made a comeback. Now an estimated 10,000 blues are in our oceans, with about 2,000 plying the waters along the Big Sur coast each summer.

California condors are among the largest flying birds in the world. In the 20th century their population steadily declined until the California Department of Fish and Wildlife took them into protective captivity in 1987. They were re-introduced into the wild in 1992. There are now 400+ California condors in the world, with about 20 here and in the southwest. In Big Sur, they nest in redwood hollows or in cliff caves, and feed on the carcasses of dead whales and sea lions.



ACCESS PROVIDED IN COOPERATION WITH
THE CALIFORNIA COASTAL COMMISSION

HORAN | LLOYD

ANTHONY T. KARACHALE
STEPHEN W. DYER
MARK A. BLUM
JAMES J. COOK
ELIZABETH C. GIANOLA
JEROME F. POLITZER
PAMELA H. SILKWOOD
JACQUELINE M. PIERCE
BIANCA KARIM
JENNIFER M. PAVLET

Of Counsel
FRANCIS P. LLOYD
STAN L. LINKER

LAURENCE P. HORAN
(1929-2012)

DENNIS M. LAW, *Retired*
SEAN FLAVIN, *Retired*

HORAN LLOYD
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
26385 Carmel Rancho Blvd., Ste. 200
Carmel, CA 93923

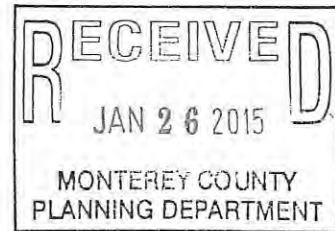
Tel: 831.373.4131
Fax: 831.373.8302
horanlegal.com

Pamela H. Silkwood

psilkwood@horanlegal.com

File No. 17.0123

January 23, 2015



Via Electronic and Regular Mail

Joe Sidor
Monterey County Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

RE: PLN140729 – Ventana Trail, Parking & Signage

Dear Mr. Sidor:

This letter is written on behalf of several landowners to comment on the Ventana trail, parking & signage project (PLN140729; “Ventana Access Project”) that was before the Big Sur Land Use Advisory Committee on January 13, 2015. This letter is to request that Monterey County exercise its authority and duty under the California Coastal Act and Monterey County Code to require a coastal development permit (“CDP”) application for the Ventana Access Project, and process the CDP application in accordance with the Coastal Act; Monterey County Code; and California Environmental Quality Act (“CEQA”). As part of the CDP application, Monterey County must require and review a Public Access Management Plan and determine the Plan’s consistency/inconsistency with the policies set forth in the Big Sur Coast Land Use Plan (“BSLUP”). Issues of overburdening the existing easement and adherence to the Coastal Trail planning process that was approved by the Big Sur and Carmel Highlands communities must also be part of the public discussion during a hearing on the CDP application.

Joe Sidor
January 23, 2015
Page 2

A. New Trail and Parking Lot Require a Coastal Development Permit and Associated Environmental Review

The Ventana Access Project, even though it is an amended condition of a prior CDP, is a separate and distinct project dissimilar to the inn unit and commercial development project ("Ventana Expansion Project") that was approved in 1982 (CDP 3-82-171). Thus, it requires a separate coastal development permit ("CDP") issued by Monterey County. Nearly 30 years after the approval of the amendment to the condition for the Ventana Expansion Project, the application for the Ventana Access Project comes before Monterey County, not in the correct form of a CDP, but rather as a design approval for signage and trail improvements.

Procedurally, the Coastal Commission's approval of Consent Cease and Desist and Restoration Orders CCC-13-CD-06/CCC-13-RO-06 and CCC-13-CD-07/CCC-13-RO-07 (collectively, "Consent Orders") in 2013, does not constitute an issuance of a CDP for the Ventana Access Project. The Coastal Commission cannot usurp Monterey County's delegated permit authority through the Orders. As the local agency with delegated permitting authority, Monterey County has a duty and obligation to review the entire project through a CDP process.

The Coastal Act makes clear that the Coastal Commission has limited jurisdiction. The legislative intent of the local government's key role in the Coastal Act is clearly set forth in section 30004, entitled *Necessity for local and state involvement*, which states in relevant part as follows:

The Legislature further finds and declares that:

(a) To achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.

Coastal Act §30519(a) clearly sets forth local agencies' authority to review the Ventana Access Project:

Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30660) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof. (Emphasis added.)

Joe Sidor
January 23, 2015
Page 3

The 1982 Coastal Development Permit 3-82-171 and the 1986 amendment for the Ventana Expansion Project, amending a condition from a picnic area to a parking lot and trailhead, do not in any way obviate the CDP requirement because no thorough consistency and environmental reviews had been performed on the amended condition. In fact, the 1992 approval anticipated future review of the trail condition by Monterey County to determine its consistency with BSLUP policies, likely through a CDP, as follows:

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

The 1986 approval does not change the above condition (Condition 5b). Moreover, the 1986 amendment remands to Monterey County for approval of the plans for the recreational facilities at "Cadillac Flats" by stating, "Monterey County local approvals shall accompany the submittals."

The Consent Orders also do not provide a consistency review, nor does it review potential environmental impacts of the Ventana Access Project. In fact, the Orders allow for re-alignment of the trail, which clearly indicates that a thorough review had not been performed since there is no certainty in the alignment. Section 12.1.C of Order CCC-13-CD-07/CCC-13-RO-07 states, "If appropriate after discussions with the property owners, if it is evident that another alignment would be more suitable, subject to the approval of the Executive Director and the property owner, this trail segment could be realigned." Section 12.5 of Order CCC-13-CD-07/CCC-13-RO-07 requires the trail alignment and other amenities, once selected, to be evaluated in a Public Access Management Plan. The Public Access Management Plan must be part of the CDP application for consistency review against the BSLUP¹ and for environmental review under CEQA.

¹ The Public Access Management Plan must be reviewed against BSLUP policies, including those applicable to Public Access (Chapter 6). In particular, the Public Access Management Plan must be carefully reviewed against the below listed policies:

6.1.4.3 Access should be discouraged as inappropriate where it would be inconsistent with public safety, military security or the protection of fragile coastal resources. The County and other public agencies should cooperate with landowners to develop effective methods to direct access to appropriate locations. (Con't next page.)

Joe Sidor
January 23, 2015
Page 4

Simply put, the Coastal Commission does not have the authority to use a consent order to bypass the CDP process that has been delegated to the local government. The Consent Orders do not cite any specific legal authority granting the Commission that power. Nor is a condition, or an amendment thereto, of a previously granted permit equivalent to an issued CDP for that condition, particularly since the condition is in-and-of-itself a separate project.

Monterey County has that authority and duty to perform a review of the Ventana Access Project under a CDP application, upon Ventana's submission of the Public Access Management Plan because the new trail and parking lot fall within the definition of "development" under the Coastal Act §30106, which broadly defines "development" as follows:

"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). (Emphasis added.)

6.1.4.4. Visual access should be protected for long term public use. The development of scenic viewpoints in conjunction with accessways or where physical access is not appropriate is encouraged.

6.1.4.6. Trails should be located in areas able to sustain public use without damage to natural resources or other conflicts. Therefore, new and existing trails should be sited or rerouted to avoid safety hazards, sensitive habitats, and incompatible land uses.

6.1.4.7. The provision of new access or formalization of existing access is to be guided by detailed management plans, including implementation responsibilities. These should include community ideas and desires to guarantee quality land preservation, be consistent with Coastal Act policies, and must attempt to positively resolve access conflicts with residential land uses. It is the County's policy to work closely with local citizen advisors and public agencies in planning for access and management.

6.1.4.9. In providing for access, the County seeks to ensure that the rights of residents and property owners, including their peace, privacy, safety, health, and property are not jeopardized by unmanaged, inappropriate (as defined in policy 6.1.4.3), or irresponsible public access.

Joe Sidor
January 23, 2015
Page 5

Section 30600 of the Coastal Act requires a CDP from “any person wishing to perform or undertake any development in the coastal zone.” This section cites the only exemptions available from the CDP requirement, which are emergency works and projects.

Under Monterey County Code § 20.70.120.B.6, the maintenance, alteration, or addition to existing structures are not exempt from a CDP if any improvement to a structure increases the intensity of use of the structure or changes the nature of the use.

The conversion of the staging area used for firefighting to a parking lot is a change in and intensity of use subject to a CDP, and this specific “development” was not issued a CDP by the Coastal Commission or Monterey County. Development of a five (5) foot-wide trail on slopes in excess of 30% in environmentally sensitive habitat areas with new connections to Ventana commercial operation and to State Parks also trigger a CDP, and this “development” was not issued a CDP by the Coastal Commission or Monterey County. By bypassing the CDP process for the changes in and intensification of uses, Monterey County and the Coastal Commission would be setting a bad precedent.

In a factually similar case (*La Costa Beach Homeowners' Assn. v. California Coastal Com.* (2002) 101 Cal. App. 4th 804), the court made clear that further review under a new permit is procedurally proper despite an agreement reached between the Coastal Commission and the applicant to amend conditions of issued permits and despite the Commission approving the amended conditions at a public hearing. In *La Costa Beach Homeowners' Assn.*, the applicants sought to have the view corridor conditions in their permits deleted. In exchange, the applicants offered to grant to the appropriate agency an undeveloped parcel that represented the combined width of the view corridor requirements, which would be dedicated for public beach access. After a public hearing, the amendments to the permits were approved. In reviewing the petitioners' challenge, the court asserted that the Coastal Commission acted properly because it required a new permit for the beach access even though amendments to the conditions had been already approved by the Coastal Commission at a public hearing. The court stated,

At the outset, we note that by approving real parties' proposed amendments, the Commission did not authorize use of the mitigation parcel for public access in its current condition. Rather, acceptance of the parcel as embodied in the amendments was contingent on the Conservancy or other agency erecting an appropriate fence and gate to limit access and the issuance of a new coastal develop permit for improvements “such as gates, stairs, fences, signs, and locks” that are “necessary to provide adequate public recreation and access.” It is only when the new permit is granted that the public will gain vertical access to the mitigation parcel. That new permit will, of course, be subject to challenge by

Joe Sidor
January 23, 2015
Page 6

"[a]ny aggrieved person" under the Coastal Act. (Pub. Resources Code, § 30801.) (Emphasis added; *La Costa Beach Homeowners' Assn. v. California Coastal Com.*, 101 Cal. App. 4th 804, 818.)

Similarly here, the Coastal Commission amended a condition, which resulted in a separate and distinct project than the permitted and approved inn and commercial development project. The trail project is contingent upon working with the State Parks and the US Forest Service. A new permit is required to consider the project improvements (e.g., signs, parking & amenities – see, Section 12.5 of Order CCC-13-CD-07/CCC-13-RO-07) that will need to be made in consultation with these other agencies. The Coastal Commission does not have the authority to bypass the CDP requirement for the Ventana Access Project through the Consent Orders. Such action would be in violation of procedural due process and the administrative process set forth in the Coastal Act.

In summary, Monterey County, as the local jurisdiction with delegated permitting authority, has the duty and obligation to require a CDP application for the Ventana Access Project, which application must include a Public Access Management Plan (Section 12.5 of Order CCC-13-CD-07/CCC-13-RO-07). The CDP application is subject to public notice and hearing and must be reviewed for consistency with the BSLUP policies and for potentially significant environmental impacts.

B. The Proposed Use of the Trail Easement is Legally Invalid

The grant of the trail easement was between the owners along the North Coast Ridge Road and the U.S. Forest Service. Neither Ventana nor the California State Parks is a holder of the trail easement. Yet, if the condition imposed by the Coastal Commission is implemented, then Ventana and State Parks will benefit from the easement. Ventana, in particular, would benefit by providing its guests/customers a direct access to the trail easement from its expanded commercial operation.

As a general rule, an appurtenant easement may not be used for the benefit of property other than the dominant tenement specified in the grant of the easement, unless the terms of the easement provide otherwise. The intent of the parties determines which estates or servitude interests are burdened or benefited by a servitude. If their intent is not expressed, it may be inferred from the circumstances. In the absence of circumstances indicating some other intent, the normal inference is that the parties intend to burden or benefit the estates or other interests they own in the property. (*Moylan v. Dykes* (1986) 181 Cal. App. 3d 561, 569.)

It is clear from the comment letters from the drafters of the easement deed that the intent of the parties, specific to the trail easement, was to benefit the U.S. Forest Service's public

Joe Sidor
January 23, 2015
Page 7

access to Ventana Wilderness. That is, the easement is appurtenant to the lands. The grant specifically identifies the servient tenements. Moreover, the easement was created to exchange access and maintenance obligation with the U.S. Forest Service as considerations of the grant. It is clear the parties clearly did not intend to benefit Ventana or the State Parks. Accordingly, any trail connection that results in this new benefit to non-easement holders and new burden to servient tenement owners are not allowed.

Moreover, the owner of an easement cannot change or increase the use of the easement in any manner that imposes a new or greater burden on the servient tenement. (See, e.g., *Winslow v. Vallejo* (1906) 148 Cal. 723.) In *Winslow*, the city provided water to its residents by a reservoir located in a neighboring county. The water was distributed to the city through a 14-mile, 10-inch pipe line laid on the properties of many, including the plaintiff. As the city's population grew, the 10-inch pipe became inadequate to serve the city's needs, thus, it planned to lay a 14-inch pipe across the plaintiff's property. The court found that the grant of the initial easement to the city in 1863 was general in terms and did not address a future need to lay additional pipes. Thus, the Court found that the parties' conduct with respect to how the easement had been used over the years defined the limits of the easement. Because it had only been used for the laying and maintaining of the 10-inch pipe, the Court ruled that the easement could not be extended to allow for the laying of an additional 14-inch pipe. (*Ibid.*)

In following the ruling in *Winslow*, the court in *Woods Irrigation Co. v. Klein* (1951) 105 Cal. App. 2d 266, stated as follows:

[W]here a grant of an easement is general as to the extent of the burden to be imposed on the servient tenement, an exercise of the right, with the acquiescence and consent of both parties in a particular course or manner fixes and limits it to the particular course or manner in which it has been enjoyed, so that it cannot be changed at the pleasure of the grantee of the easement.

As applied here, the extent of the burden imposed on the servient tenements is limited to the manner in which the trail easement was used since its creation in 1993. Such limited use of the private road as a public trail was acknowledged by the Coastal Commission in issuing the permit for the Ventana Expansion Project as follows:

In the case of Coast Ridge Road, however, for the most part this policy would appear inapplicable: the route is narrow, unsurfaced, and provides no opportunity for widening without environmental damage. The road is an U.S. Forest Service administrative route over private land, except for hikers and equestrian traffic is not open to public use.

Joe Sidor
January 23, 2015
Page 8

Since the creation of the easement, the gate at the road has been historically and is currently the trailhead (as well as used for vehicular access) with no on-site parking available. Adding new five (5) foot-wide trail connections; and a new trailhead and parking lot, which provides not only general public trail access to benefit the U.S. Forest Service, but also direct access for Ventana for use by its guests/customers from its expanded Ventana commercial operation and access to State Parks, would constitute a change in the manner of use that places additional burden on the servient tenements, i.e., a surcharge of the easement. This situation is akin to replacing a 10-inch pipe with a 14-inch pipe for water delivery, for which the *Winslow* Court determined that such conduct would be place a prohibitive additional burden on the servient tenement.

Finally, although the offer to dedicate certain easements by Ventana was accepted, the offer was qualify by certain conditions and those conditions have not been satisfied. Accordingly, there is no public interest in that property. An offer of dedication which is accepted on the condition that the proffered property be improved does not result in a completed dedication, no more than does a conditional acceptance of an offer create a valid contract. (*Baldwin v. City of L.A.* (1999) 70 Cal. App. 4th 819, 837; *Mikels v. Rager* (1991) 232 Cal. App. 3d 334, 339.) A public entity's interest in easements offered by dedication is necessarily limited by the conditional nature of its acceptance thereof, which depends for finality upon a subsequent acceptance after satisfactory completion of the improvements. (*Ibid.*) A qualified acceptance results in an outstanding offer of dedication, which has not been revoked by operation of law and which the public entity may accept upon its conditions of acceptance being met. Until the offer of dedication is unconditionally accepted, no public interest is created. (*Ibid.*)

Here, the Irrevocable Offer to Public Access Easement recorded on December 5, 1986 in Reel 2033 at Page 977 in the Office of the Monterey County Recorder ("Offer") was conditioned upon determining the location and design of the trail (Paragraph 7 & 8), trail construction (Paragraph 7), and the acceptance of the easement by an appropriate public agency or private association (Paragraph 9), which are all conditions of the Offer. As stated above, the Consent Orders allow for realignment of the trail and thus, it is clear that the conditions in Paragraphs 7 and 8 of the Offer have yet to be fulfilled. Furthermore, no public agency or private association has accepted the easement. Under general contract law, to accept an offer and make a binding contract, the offeree must comply with all the conditions of the offer, for which the Coastal Commission failed to do. Accordingly, the dedication is not complete and has since lapsed.

C. The Community Planning Process for the Coastal Trail Must be Adhered To

It is clear that the Coastal Commission has an interest in creating an alignment of the Coastal Trail, small segment by small segment, through conditions of permits or any other mechanism available to bypass the community planning process that took a decade to develop

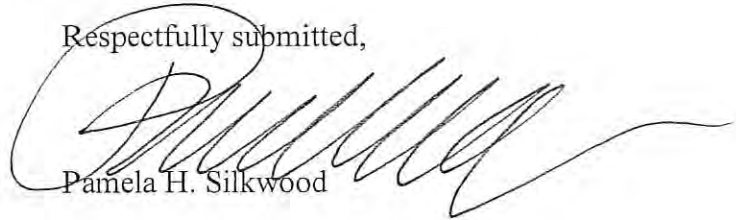
Joe Sidor
January 23, 2015
Page 9

and was unanimously approved by the Big Sur and Carmel Highlands communities. The Coastal Commission staff attempted to do the same as part of the Rocky Creek Viaduct Project.

This is despite the willingness of the communities to start the trail alignment process and requested grant funding from Parker's settlement payments, which has yet to materialize. The planning document, entitled *Process for Writing the Master Plan for the Big Sur Portion of the California Coast Trail*, sets forth a specific process for aligning the Coastal Trail, with a goal of obtaining public participation in the Coastal Trail planning process consistent with the Legislature's express findings and declarations in the Coastal Act. (Pub. Res. Code § 30006.) The Coastal Commission staff, who were invited and participated in the development of the planning process, cannot usurp this process by forcing the alignment of the Coastal Trail through project conditions.

I would appreciate a reply to this letter.

Respectfully submitted,



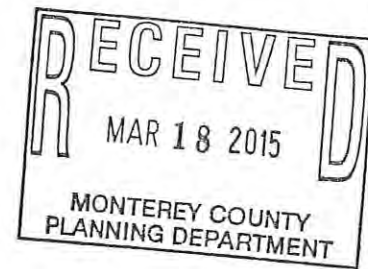
Pamela H. Silkwood

PHS/dkp

Cc: Clients
Senator Monning
Supervisor Potter
Charles Lester, California Coastal Commission
John Del Arroz, California Coastal Commission
Carl Holm, Monterey County
Mike Novo, Monterey County
Jacqueline Onciano, Monterey County
Tim Short, U.S. Forest Service
Mat Fuzie, California State Parks
Big Sur Land Use Advisory Council
Coast Property Owners Association
Big Sur Volunteer Fire Brigade
Executive Committee for the Big Sur Portion of the California Coastal Trail
Mike Freed

CALIFORNIA COASTAL COMMISSION

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



Via Regular U.S. Mail and Electronic Mail
March 13, 2015

Mr. Joseph Sidor
County of Monterey RMA - Planning / ALUC
168 W. Alisal St.
Salinas, CA 93901

Dear Mr. Sidor:

First, let me express my appreciation for your recent efforts regarding this project. Your efforts to provide Commission staff with information on the steps involved in the process for Design Approval and the requests made by the Zoning Administrator and the Big Sur Land Use Advisory Committee ("LUAC") have been extremely helpful. I would also like to thank you for the time that you and other County staff have spent in preparing for the hearings regarding this project that have occurred in the past few months, and your continuing efforts in regards to the upcoming Zoning Administrator hearing for Design Approval for signage and trail improvements that is scheduled for April 9th.

As you know, on June 14, 2013, the California Coastal Commission ("Commission") issued separate enforcement orders to the Ventana Inn and Spa ("Ventana") and Mr. Sean Parker¹, primarily to address the unpermitted construction of a wedding venue and closure of a publicly available campground on Ventana's property. The orders also addressed Ventana's failure to provide for public parking at Cadillac Flats, which was an explicit requirement of Coastal Development Permit No. 3-82-171, as amended ("the CDP")². While two sets of distinct orders were issued in this case, this letter focuses on compliance with and issues surrounding the orders issued to Ventana (the "Consent Orders"). The plans under consideration by the County for Design Approval (hereinafter referred to as "Public Sign and Trail Elements") were developed by Ventana to comply with the requirements of the Commission-issued Consent Orders.

As you mentioned, an objection was filed regarding Ventana's application for Design Approval, which provided an opportunity for the Big Sur Land Use Advisory Committee ("LUAC"), composed of members of the Big Sur community, to provide input on the Design Approval, and for the Zoning Administrator to review and consider the application for Design Approval. Commission staff has reviewed the recommendations provided by LUAC regarding the Design

¹ Consent Cease and Desist Order No. CCC-13-CD-06 and Consent Restoration Order No. CCC-13-RO-06 (Parker) and Consent Cease and Desist Order No. CCC-13-CD-07 and Consent Restoration Order No. CCC-13-RO-07 (Ventana).

² CDP No. 3-82-171, as amended in June, 1986, by CDP amendment 3-82-171-A1, authorized the expansion of the Ventana Inn. As a condition of that approval, Ventana was required to provide for public parking at Cadillac Flats for the purposes of "public viewing and as a parking area for hikers and backpackers of the area." There were no restrictions imposed on the public's ability to use this area for public parking. The time to challenge the Commission's approval of this permit and the conditions imposed upon the permit have long since passed.

Approval. Commission staff has also reviewed letters from members of the community regarding the Public Sign and Trail Elements, the process by which they are being reviewed, and their substantive consistency with the Coastal Act and the Big Sur Coast Local Coastal Program (“LCP”). In response to those letters and the LUAC recommendations, I am writing this letter to provide you with some additional information and context, which I hope will be helpful for the County’s consideration of Ventana’s proposed plan. If you have any questions regarding the information below, please let me know so that I can be of further assistance.

Please find below, a discussion of: 1) consistency of the Consent Orders with the Coastal Act and CEQA; 2) the LUAC recommendations and their consistencies, or in some cases inconsistencies, with requirements of the Consent Orders and the CDP; 3) consistency of the Public Sign and Trail Elements with the CDP; 4) responses to other challenges to the Public Sign and Trail Elements; 5) public use of the Coast Ridge Road easement; and 6) requirements of the Consent Orders with regard to the public trail signage.

Consent Orders are Consistent with the Coastal Act and CEQA

The Commission’s issuance of the Consent Orders is the functional equivalent of a coastal development permit in that the development required to be undertaken by the Consent Orders has not only been ordered by the Commission, but also authorized by the Commission³, and no additional coastal development permits are required.

It is true that, as one commenter noted, the Big Sur Coast area of Monterey County has a certified LCP, and the authority for issuance of new CDPs has therefore been delegated to the County pursuant to California Public Resources Code (“PRC”) section 30519. However, the Commission has retained primary enforcement jurisdiction over this violation case at Ventana primarily because development occurred inconsistent with the CDP issued by the Commission.

At the public hearing for the Consent Orders, which occurred on June 14, 2013, the Commission issued the Consent Orders to enforce the CDP and resolve the violations by requiring Ventana to, among other things, remove unpermitted development from the property, perform actions necessary to restore resources impacted by the unpermitted development, mitigate the impacts that resulted from the unpermitted development and comply with requirements of the CDP. The Commission found that the actions required by the Consent Orders were required to fully resolve the Coastal Act violations on the Ventana property.

Furthermore, the Consent Orders also provide Coastal Act authorization to perform any development necessary to comply with the terms and conditions of the Consent Orders⁴. The Commission, after public hearing, made findings that: a) the Consent Orders are consistent with

³ Chapter 9 of the Coastal Act clearly empowers the Commission to authorize some development in the context of an enforcement action. See, e.g., Section 30810 (a “cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development”) and 30811 (“the Commission... may, after a public hearing, order restoration of a site”). The Consent Orders, in Section 2.0, state “the Commission hereby orders and authorizes Ventana...” and then refer to Section 12.0 of the Consent Orders, which requires the sign and trail modifications.

⁴ See Footnote 3

the Chapter 3 policies of the Coastal Act; b) the Consent Orders were exempt from California Environmental Quality Act ("CEQA") requirements; and c) the Consent Orders are required to resolve the unpermitted development that occurred on the site (see pages 12-23 of the staff report entitled, "Findings For Cease and Desist Order No. CCC-13-CD-06 & Restoration Order CCC-13-RO-06 (Parker and Neraida, LLC) and Cease and Desist Order No. CCC-13-CD-07 & Restoration Order CCC-13-RO-07 (WTCC Ventana Investors V, LLC)").

Therefore, the development required by the Consent Orders does not require any additional review by Monterey County regarding consistency with the Coastal Act or CEQA, and does not require issuance of any new CDPs by the County or the Commission. The Consent Orders, which have been issued and are final and effective, provide the required Coastal Act authorization, and the Commission has recognized a CEQA exemption.

LUAC Recommendations:

The Public Sign and Trail Elements were revised by Ventana to address design modifications requested by the Zoning Administrator at their November 13, 2014 hearing, consistent with the Consent Orders. In its January 13, 2015 meeting, the LUAC considered the Public Sign and Trail Elements with those revisions. The LUAC recommendations from the January 13, 2015 meeting do not appear to include modifications to the design elements of the signage, such as the size, configuration, materials or colors of the signs, which is the scope of the Design Approval. Instead, the LUAC recommendations include modifications to the content and number of the signs required by the Consent Orders, which would, if allowed to proceed, conflict with the Consent Orders in most respects.

The Commission, through issuance of the Consent Orders, specifically defined the content of the required signage, including the specific text and emblems to be placed on signs, the number of signs required, and the time frame for implementation of the various required plans. Therefore, LUAC recommendations regarding the elimination of signs or sign text and delays in implementation of signage elements are inconsistent with the Consent Orders.

The LUAC also proposed to modify signage at Cadillac Flats to create a new limit on allowable hours of use of Cadillac Flats for parking. As mentioned above and explained in further detail below, use of Cadillac Flats for parking, hiking, and viewing scenic areas was an explicit requirement of a coastal development permit issued on January 23, 1987 to the former owner of the Ventana Inn and Spa. This condition was imposed to mitigate the effects of certain other development and thereby ensure that that development could be found consistent with the Coastal Act. The CDP is final and there is no way to unwind a permit condition for a CDP that was issued decades ago. The permit condition did not set limits on the hours of use of Cadillac Flats. Any restrictions of use on public parking at Cadillac Flats would be a new restriction to a public access resource, and would be inconsistent with the CDP, in addition to the Consent Orders.

Although the recommendation is outside of the scope of the Design Approval, the LUAC also stated that a public access management plan is required. The LCP requires such plans only in limited cases. They are required when a public accessway is opened or improved in a manner

requiring a new CDP approval (LCP section 20.145.150.A). Commission staff has reviewed the Big Sur Coast LCP and determined that the Public Sign and Trail Elements would not significantly modify existing access on the site or provide any new access that was not envisioned and authorized decades earlier. Moreover, as indicated above, the work required by the Consent Orders does not require any new CDP approval. Therefore no management plan for Coast Ridge Road is required by these improvements. As described in further detail above, the Consent Orders require and authorize development to occur to resolve violations of the Coastal Act, including violations of the CDP. The CDP that was issued almost 30 years ago required Ventana to provide public access on and across their property, including the use of Coast Ridge Road for pedestrian and equestrian uses, dedicating off-pavement trails, and requiring Cadillac Flats for use as a parking area for hikers, and for public viewing without any limitation on volume. The Consent Orders compel compliance with the Commission's 1987 CDP, resolve violations of the CDP that have resulted in impacts to public access, and ensure the public is aware of public access opportunities that exist currently on the site and have existed for decades.

While the requirements of the Consent Orders and the CDP are final, Commission staff appreciates the community's concerns regarding the Public Sign and Trail Elements. Although, as described above, many of the recommendations proposed by the LUAC would be inconsistent with the CDP and Consent Orders, Commission staff has undertaken efforts to find a way to address the community's concerns in a way that is also consistent with the CDP and the Consent Orders, including by discussing the concerns raised by the LUAC with Ventana and with members of the community. Commission staff understands that Ventana has proposed further modifications to the signage plan to address concerns raised by the LUAC. These include the addition of text to the sign at the Coast Ridge Road gate regarding prohibited activities, the addition of trash bins and a space for informational pamphlets at the Cadillac Flats area to address concerns regarding illegal behavior and littering, and the addition of text to direct visitors to seek the informational resources available at Big Sur Station. As Ventana discussed with Commission staff prior to Ventana's submission to the County, it appears that the Public Sign and Trail Elements, with these new modifications proposed by Ventana, could be found consistent with the Consent Orders and the CDP. Commission staff has received input from the Forest Service regarding the trail signs and Commission staff will continue to work together with all agencies involved, including Monterey County, the Forest Service, and State Parks, to make sure the signs properly reflect agency requirements.

Consent Orders Ensure Consistency with CDP 3-82-171

The Cadillac Flats improvements and the improvements adjacent to Coast Ridge Road, both of which are required by the Consent Orders as part of the Public Sign and Trail Elements were previously authorized by the CDP. This includes: 1) the use of Cadillac Flats for "public viewing and as a parking area for hikers and backpackers of the area", placement of "crushed rock", and providing public access signs and maps; 2) an off-pavement trail "provided to avoid vehicular and pedestrian conflicts" adjacent to Coast Ridge Road and leading from Cadillac Flats to the Coast Ridge Road gate, and 3) an off-pavement trail from Cadillac Flats to the Ventana Campground.

CDP Amendment 3-82-171-A1, which was approved by the Commission after public hearing in 1986, requires improvements at Cadillac Flats to ensure consistency with the Public Access provisions of the Coastal Act. The staff report for CDP Amendment 3-82-171-A1 states Cadillac Flats would "be landscaped and unpaved or crushed rock parking provided for use for public viewing and as a parking area for hikers and backpackers of the area..." and would include "map displays and access signs for the public." The Consent Orders require consistency with previously issued permits. Therefore, the Public Sign and Trail Elements, which are currently under review by Monterey County, propose to install crushed rock at the Cadillac Flats area that is currently used as a public parking area for hikers and backpackers and people wanting to view scenic areas, and propose access signs and map displays at Cadillac Flats, which have all been authorized by and are consistent with the CDP. Furthermore, the public has been parking at Cadillac Flats for scenic viewing and hiking, among other activities, for several years. Therefore, public access signs at Cadillac Flats have been required for decades, and the use of Cadillac Flats for public parking is a long established use. The trail signs required and authorized by the Consent Orders and being considered by the County, such as the sign on Highway 1, would provide clarity regarding where public access is currently available and ensure that the public is aware of the public access opportunities which have been available on the property for decades.

Likewise, public pedestrian and equestrian use of the Ventana property and the Coast Ridge Road easement has occurred historically and has been required by the Commission's prior actions. Past use of Coast Ridge Road was documented in the 1982 staff report for Coastal Development Permit 3-82-171, which acknowledged that public hiking and equestrian use existed at that time:

The documents should be revised as necessary to ensure that pedestrian access is permanently provided for along the entire length of the Ventana entrance road and Coast Ridge Road through the property... The road is a U.S. Forest Service administrative route over private land, and, except for hikers and equestrian traffic is not open to public use...

To ensure that the development proposed in 1982 was consistent with the Public Access provisions of the Coastal Act, the CDP required Ventana to record offers to dedicate public pedestrian and equestrian trail easements along Coast Ridge Road and connecting Cadillac Flats to the Ventana Campground, in a configuration very similar to the trails required by the Consent Orders. Members of the public, including visitors to Ventana, visitors to the Ventana Campground, and the general public who park at the Cadillac Flats area, are currently able to walk on the Ventana entrance road, and continue on Coast Ridge Road past the vehicle gate, on the easements that the Commission previously required through the approval of the CDP. The Consent Orders require Ventana to provide a similar but safer route for this existing public use that takes the public off the road and onto a separate unpaved trail, with the modifications all limited to areas on Ventana's property before the vehicle gate.

The Consent Orders require and authorize an off-pavement trail, consistent with the CDP. The findings adopted by the Commission in support of approving CDP 3-82-171 state:

an off-shoulder trail between the proposed picnic area and the newly paved section of Coast Ridge Road should be provided to avoid vehicular and pedestrian conflicts... and the quality of the hiking experience enhanced

Although the off-shoulder trail was never constructed, the construction of the trail leading from Cadillac Flats to the Coast Ridge gate was clearly envisioned as discussed in the findings made by the Commission in that approval. The Consent Orders require Ventana to construct that trail, to provide a safer and more enjoyable hiking experience, consistent with the CDP findings made in 1982. Likewise, in the addendum to the Commission's staff report for the Consent Orders, dated June 13, 2013, the Commission described the benefits of moving existing public use to a separated trail for existing public uses. The addendum to the staff report states:

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

The Commission adopted the proposed findings, including those in the addendum to the staff report, and issued the Consent Orders, thus requiring and authorizing Ventana to, among other things, perform the trail improvements on its own property. These improvements would preserve existing pedestrian and equestrian access, while enhancing public safety, by directing the public along an off-pavement trail adjacent to Coast Ridge Road, consistent with the Commission's 1982 CDP.

The Other Challenges to the Public Sign and Trail Elements are Without Merit

Separate from the trail improvements required by the Consent Orders and currently under review by the County, which are entirely on Ventana's property and only the portion of Ventana's property before the vehicle gate, a US Forest Service Easement authorizes the public to use Coast Ridge Road, including those portions of Coast Ridge Road beyond Ventana's property, for public hiking and equestrian activities. The Consent Orders do not require, and Ventana's current proposal does not include, modifications to Coast Ridge Road or modifications to the US Forest Service easement on Coast Ridge Road.

The letter provided to the County by Ms. Pamela Silkwood, of the law firm of Horan and Lloyd, (the "Silkwood letter") alleges that the Public Sign and Trail Elements are inconsistent with and require new review of consistency with the Coastal Act and CEQA. As described in the previous section, this claim is incorrect. The Commission has the authority to enforce its CDP, the Commission found the Consent Orders are consistent with the Coastal Act and exempt from CEQA, and the Commission required and authorized the improvements required in the Consent Orders.

The Silkwood letter also alleges that the improvements required by the Consent Orders (which were, again, approved by the CDP) require new approvals by Monterey County, due to a special condition of the CDP which states: "Monterey County local approvals shall accompany the submittals", and a special condition which requires an easement required by the CDP to be found consistent "with the approved LUP and the Commission's/Conservancy 'Standards and Recommendations for Coastal Access.'" Although the permit and the permit amendment do include these conditions, they were drafted as "prior to issuance" conditions, meaning that the applicant was required to satisfy them before the permit could issue. And indeed, both conditions were satisfied prior to the issuance of the CDP. The applicant submitted the information, as necessary for Commission staff to issue the CDP, in 1987. These conditions do not require additional review of the Public Sign and Trail Elements.

The Silkwood letter cites *La Costa Beach Homeowners' Assn. v. California Coastal Commission* (2002), 101 Cal.App.4th 804 ("*La Costa*"), to claim that a new CDP is required to authorize minor alterations to a previously-approved project. However, that proposition was not before the court in that case and was not addressed by the decision⁵.

Finally, the Silkwood letter alleges that an access management plan is required and that Section 12.5 of the Consent Orders requires evaluation of trail alignments in a Public Access Management Plan. This statement is incorrect. As described in the "LUAC Recommendations" section of this letter, no Access Management Plan is required by the Big Sur Coast LCP for the Public Sign and Trail Elements. The Consent Orders use the phrase "Public Access Management Plan" simply as a label for a plan that the Consent Orders require to be submitted. That label just so happens to match the language used in the LCP for a different sort of plan. However, the plan mandated by the Consent Orders and its requirements are not the same as the term 'Public Access Management Plan' as defined by the LCP. The Public Access Management Plan required by the Consent Orders includes requirements to "demonstrate compliance with [the CDP]" and to "summarize all public access and recreational opportunities available on the Property...." It does not, as alleged, require a new evaluation of trails or easements.

Public Use of Coast Ridge Road is Consistent with the Easement

Commission staff has reviewed letters from the public that appear to claim that the improvements in the Public Sign and Trail Elements on Ventana's property would be inconsistent with the US Forest Service easement along Coast Ridge Road⁶. Commission staff

⁵ *La Costa* dealt primarily with the question of whether PRC section 30251 authorized the Commission to approve off-site mitigation. The portion of the case quoted by the Silkwood letter dealt with the opponents' claim that the off-site mitigation authorized by the Commission, an entirely new accessway project at a separate location, the details of which were as yet undefined, would not be safe. In response, the court stated that the Commission did not need to assess that issue as it had deferred the question by requiring a new permit before the accessway could be opened. The Court did not hold that the Commission would have violated any procedural rule had it not required a separate permit for that project – only that, because it did require a separate permit, the safety issue raised by the opponents had been deferred.

⁶ Although the question has not been posed to the Commission, Commission staff also notes that the cases cited by Ms. Silkwood for the concerns about overburdening easements are inapposite. For one thing, contrary to the claims made in the letter, the pipe at issue in the *Winslow* case was not being replaced; an entirely new pipe was being proposed in addition to the existing one. Both the *Winslow* and *Woods Irrigation* cases (continued on next page)

has found that the activities required and authorized by the Consent Orders are consistent with the easement. The US Forest Service easement states that allowable uses of the Road and Trail include the “full, free and quiet use and enjoyment of a Road and trail for the following purposes: a) the non-exclusive trail easement shall be for the purposes of hiking and/or equestrian uses by the general public...” The US Forest Service easement does not contain restrictions that would limit public hiking and equestrian uses. Although Section 3 of the US Forest Service easement states that the Forest Service should obtain consent for increasing *its* use of the road, no portion of the easement contains a restriction on the general public’s ability to use the trail for hiking and equestrian uses. The easement also does not differentiate between segments of the general public. Visitors to Ventana Inn, visitors to the surrounding parks property, and any other member of the public are properly considered members of the general public. Therefore, use of the trail by any of these groups is currently, and will continue to be, consistent with the terms of the easement.

Remaining Claims Regarding Coastal Trail Signage Were Raised and Addressed Previously and Have no Merit

As described previously, the trail signage was required and authorized by the Consent Orders to resolve unpermitted development and violations of the CDP that occurred on Ventana’s property. The signs required and authorized by the Consent Orders provide factual information regarding public access resources (such as public parking availability at Cadillac Flats and the availability of public hiking resources on Ventana’s property). Such signage is consistent with, and complementary to, existing U.S. Forest Service signage in the area.

The Consent Orders also include requirements that trail signage include the California Coastal Trail emblem, and that specific trail signs be visible from Highway 1. These requirements are stated as affirmative obligations of the Consent Orders, the Commission found that the requirements are consistent with the Coastal Act, and the Commission required Ventana to provide a signage plan that conforms to the requirements. Commission staff has discussed the signage with Ventana prior to submission to the County, and it appears that the Public Sign and Trail Elements could be found consistent with the Consent Orders, the CDP, and the Big Sur LCP. Once again, the time to challenge such a requirement has long since passed and therefore is a binding obligation on Ventana. In fact, as discussed in the next few paragraphs, the requirements and the objections to them were presented by Commission staff and rebutted in the Addendum to the Commission’s staff report for the Consent Orders.

The Addendum to the Consent Order staff report included a letter from Mr. John S. Cluett, which raised concerns regarding trail signage, including the visibility of a sign from Highway 1, and the placement of California Coastal Trail emblems on the trail signage. These same concerns, which were already considered by the Commission, were again raised at the recent LUAC meeting. The addendum to the Consent Order staff report, adopted by the Commission, responded to the issue of signage design and visibility from Highway 1. It states and the Commission found:

involved concerns that allowing such wholly new construction or allowing an easement holder to move and expand the physical areas occupied by existing improvements based on a broadly-worded easement language could give rise to endless expansions and an ever-increasing portion of the servient estate being usurped by the easement-holder. At Ventana, there would be no increased physical occupation of land, and no increase in the allowable use.

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

Regarding the inclusion of Coastal Trail emblems on trail signage on the property, the Addendum to the staff report for the Consent Orders states:

Commission staff is aware of the important planning process underway in Big Sur to locate the CCT, and it is not the intent of the Consent Orders to conflict with that planning process. Through the Consent Orders, sign emblems demarcating the CCT will be in place until the planning committee reaches a final decision on the location of the CCT, and if a new CCT trail/sign is designed, Commission staff will work with all stakeholders to replace the sign emblems placed pursuant to the Ventana Consent Orders once such a final decision occurs.

The Commission received the addendum, and was aware of the concerns regarding trail signage when it deliberated. After considering the concerns raised in Mr. Cluett's letter, the Commission approved the Consent Orders with the requirements for trail signage, including the requirement for a trail sign visible from Highway 1 and the requirement for the California Coastal Trail emblem. The Commission found that the Consent Orders, with the requirements regarding trail signage, are consistent with the Coastal Act. Therefore, the concerns raised by the LUAC regarding these issues have already been considered and resolved by the Commission.

After the Consent Orders were issued, Commission staff worked with Ventana to ensure that the sign visible from Highway 1 would be consistent with typical coloration of access signage, would be located on Ventana's property, would be in an unobtrusive location adjacent to existing vegetation and fencing, and would not obstruct scenic views. Later, after consultation with Commission staff, it is our understanding that Ventana made further revisions to their signage plan to address the concerns raised by LUAC and the Zoning Administrator and to ensure that the signage conforms to the character of signage in the area. Commission staff has discussed the Public Sign and Trail Elements with Ventana prior to submission to the County, and it appears that the Public Sign and Trail Elements, with these most recent modifications, could be found consistent with the Consent Orders and the CDP.

Commission staff has also worked with Ventana to ensure the trail signs will be installed with the California Coastal Trail emblems, as required by the Commission. When a final decision is reached on the location of the Coastal Trail or the design of the final emblem, Commission staff will work with Ventana to make the required modifications to the trail emblems to ensure accuracy of the signs.

Conclusion:

Thank you again for your help and assistance through this process. Commission staff has discussed Ventana's plan and their proposed modifications with Ventana prior to its submission to the County, and it appears that the Public Sign and Trail Elements could be found consistent with the Consent Orders, the Big Sur Coast LCP, and the Coastal Act. Commission staff has received input from the Forest Service regarding the trail signs, and Commission staff will

Mr. Joseph Sidor
March 13, 2015
Page 10 of 10

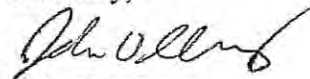
continue to work together with all agencies involved, including Monterey County, the Forest Service, and State Parks, to make sure the signs properly reflect agency requirements. Although objections to signage were raised prior to issuance of the Consent Orders and new objections raised again recently by the LUAC, the Consent Orders require and authorize Ventana to undertake specific actions to fully resolve Coastal Act violations and ensure that Ventana complies with the previously issued Coastal Development Permit. The LUAC recommendations regarding elimination of signs and text required by the Consent Orders and delays in implementation of certain sign elements are inconsistent with the Consent Orders and the CDP, and are not necessary to ensure that the Public Sign and Trail Elements under consideration by the County are consistent with the Coastal Act, the Big Sur Coast LCP, or the Consent Orders.

Through the Consent Orders, the Commission has both required the improvements and provided Coastal Act authorization to Ventana for the improvements, and recognized a CEQA exemption for that authorization. Therefore, review of consistency with the Coastal Act and CEQA does not need to be performed by Monterey County. Uses which have recently raised concerns, such as the use of Cadillac Flats for parking, hiking and equestrian use on the property, have been in place and required by the Coastal Development Permit issued by the Commission for many years. Any new restriction to the required public access resources would be inconsistent with the Consent Orders and the Commission's CDP.

However, in response to concerns raised by the Zoning Administrator and the LUAC, Ventana has proposed modifications to its plan, including to the appearance of the signage, and addition of extra sign text. As discussed with Commission staff prior to submission to the County, it appears that the Public Sign and Trail Elements, with these most recent modifications, could be found consistent with the Consent Orders and the CDP.

Thank you very much for your consideration and your help in reviewing the Design Approval of the important public access resources required by the Commission's CDP and the Consent Orders. Please let me know if I can be of any further assistance.

Sincerely,



John Del Arroz

Statewide Enforcement Analyst

cc: Ventana Inn
Lisa Haage, Chief of Enforcement
Dan Carl, North Central Coast District Deputy Director
Alex Helperin, Senior Staff Counsel
Tim Short, U.S. Forest Service
Matthew Fuzie, California State Parks

HORAN | LLOYD

ANTHONY T. KARACHALE
STEPHEN W. DYER
MARK A. BLUM
JAMES J. COOK
ELIZABETH C. GIANOLA
JEROME F. POLITZER
PAMELA H. SILKWOOD
JACQUELINE M. PIERCE
BIANCA KARIM
JENNIFER M. PAVLET

Of Counsel
FRANCIS P. LLOYD
STAN L. LINKER

LAURENCE P. HORAN
(1929-2012)

DENNIS M. LAW, *Retired*
SEAN FLAVIN, *Retired*

HORAN LLOYD
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
26385 Carmel Rancho Blvd., Ste. 200
Carmel, CA 93923

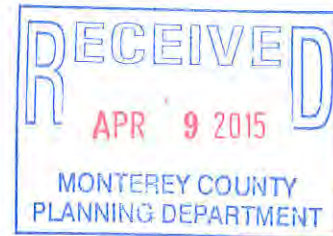
Pamela H. Silkwood

psilkwood@horanlegal.com

Tel: 831.373.4131
Fax: 831.373.8302
horanlegal.com

File No. 17.123

April 8, 2015



Via Electronic and Regular Mail

Joe Sidor
Monterey County Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Wendy Strimling, Sr. Deputy County Counsel
Monterey County Counsel's Office
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

Re: PLN140729 – Ventana Trail, Parking & Signage

Dear Wendy and Joe,

This letter is in response to the letter by John Del Arroz of the California Coastal Commission ("CCC Letter"), dated March 13, 2015, regarding the Ventana trail, parking and sign project ("Project"). We appreciate your consideration of this letter and the County's continued support of the Big Sur community.

The CCC Letter did not sufficiently respond to the following significant issues: (1) the Project requires a coastal development permit ("CDP") and there is no such thing as "functional equivalent of a CDP"; (2) since the CDP issuance for the Ventana commercial project occurred 30 years ago, changed circumstances and new information trigger environmental review of the Project under CEQA; and (3) the Project's overburden of the easement could result in forfeiture or extinguishment of the easement.

The CCC has placed Monterey County in a difficult position. Monterey County has delegated permitting authority over the Project application and is assuming associated liability; however, the CCC Letter is advising the County to act inconsistently with the Coastal Act and CEQA. Regardless of the assurances provided in the CCC Letter, Monterey County has a duty to act consistent with state law.

Joe Sidor & Wendy Strimling
April 8, 2015
Page 2

A. No “Functionally Equivalent of a CDP” in the Coastal Act and Additional Environmental Review Required Under CEQA

The CCC Letter asserts that the consent orders are “functionally equivalent of a coastal development permit” by citing sections 30180 and 30811 of the Coastal Act. There is no such thing as “functionally equivalent of a CDP”. Section 30180 grants authority to the CCC, under certain circumstances, to the issue cease and desist orders, and section 30811 grants authority to the CCC to order restoration. Neither section grants CCC the authority to issue consent orders that are functionally equivalent of a CDP, as asserted in the CCC Letter. The CCC Letter failed to cite any relevant legal authority to support the CCC’s position that the consent orders are functionally equivalent of a CDP.

Moreover, 30 years have passed since the CCC’s issuance of the CDP for the Ventana commercial project. Changes in circumstances and new information on the potential environmental impacts posed by the Project since the issuance of that CDP trigger additional review under CEQA. (14 CCR §15162.) The most significant changed circumstance occurred in 1986, when Monterey County’s Big Sur Land Use Plan/Local Coastal Program (“LCP”) was certified by the CCC, delegating the permitting authority to Monterey County.¹

Pursuant to CEQA Guidelines section 15162(c), Monterey County, as the lead agency, has the obligation to perform additional environmental review. Section 15162(c) states, in relevant part, the following:

If after the project is approved, any of the conditions described in subdivision (a) occurs [i.e., changed circumstances and new information], a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted. (Emphasis added; 14 CCR §15162(c).)

¹ Other examples of changed circumstances include the following:

- The CCC staff report dated September 20, 1982, states that motor traffic is infrequent on Coast Ridge Road. Motor traffic has increased on Coast Ridge Road due to additional development and uses, and accordingly, there is a conflict between hiker/equestrian uses and vehicular use on Coast Ridge Road, which requires further environmental review.
- Smith’s blue butterfly and its habitat have been identified in the area of the Project. (See, Post Ranch Inn HCP, dated June 12, 2006.)

Joe Sidor & Wendy Strimling
April 8, 2015
Page 3

The CCC Letter alludes to an environmental review performed at the time the CCC issued the Consent Orders. The CCC did not perform adequate environmental review of the Project either at the time of the consent orders or at the time of the CDP for the Ventana commercial project. The court in *Conway v. State Water Resources Control Bd.* (Cal. App. 2d Dist. Mar. 30, 2015), in considering this very issue, made clear that simply the existence of a certified regulatory program does not discharge the agency's duty to comply with CEQA:

[T]here must be significant documentation. The document used as a substitute for an EIR must include a description of the proposed activity with alternatives to the activity and mitigation measures as well as written responses to significant environmental points raised during the evaluation process. (*Id.*, subds. (d)(2)(D) & (d)(3)(A); Cal. Code Regs., tit. 14, § 15252, subd. (a).)

Moreover, the CCC does not have a program certified by the Secretary for Resources specific to consent orders. (See, 14 CCR §15251(c).) That is, consent orders of CCC are not enumerated in the list of programs certified by the Secretary of Resources. Accordingly, the CCC does not have authority to issue a functional equivalent environmental review for consent orders. The "functionally equivalent exemption" for environmental review only applies "when an agency has an approved regulatory program requiring information essentially duplicative of that which would be included in an EIR." (*Citizens for Non-Toxic Pest Control v. Dep't of Food & Agric.* (1986) 187 Cal. App. 3d 1575, 1584.)

Because Monterey County is delegated the permit authority and is reviewing the Project application, Monterey County must perform environmental review of the Project under CEQA. Monterey County cannot rely upon a 30-year old functionally equivalent environmental review of a CDP for an entirely different project, particularly when there are changed circumstances and new information specific to potential significant environmental impacts associated with the Project.

Finally, at the time the consent orders were issued, the CCC did not address the new trail/signs/parking lot's inconsistency with key LCP policies. Yet, the CCC Letter asserts that a consistency review occurred. If, in fact, the CCC had performed a consistency review for the Project, the CCC failed to remedy the Project's inconsistency with the following LCP policies:

- **Key Policy 3.2.1: Recognizing the Big Sur coast's outstanding beauty and its great benefit to the people of the State and Nation, it is the County's objective to preserve these scenic resources in perpetuity and to promote the restoration of the natural beauty of visually degraded areas wherever possible. To this end, it is the County's policy to prohibit all future public or private development visible from Highway 1 and major public viewing areas (the critical viewshed), and to condition all new**

Joe Sidor & Wendy Strimling
April 8, 2015
Page 4

development in areas not visible from Highway 1 or major public viewing areas on the siting and design criteria set forth in Sections 3.2.3, 3.2.4, and 3.2.5 of this plan. This applies to all structures, the construction of public and private roads, utilities, lighting, grading and removal or extraction of natural materials.

The proposed 5-foot wide public access trail would be visible from Highway 1. That is, development is being proposed within the critical viewshed², which is expressly prohibited under this policy. This Key Policy prohibits all future public or private development visible from Highway 1, and this prohibition applies to all grading and removal of natural materials. (See, also, Policy 3.2.3.A.4, which states, in relevant part, “New roads, grading or excavations will not be allowed to damage or intrude upon the critical viewshed.”) The grading of a 5-foot wide public trail visible from Highway 1 will directly conflict with this policy.

The trail is also in direct conflict with Big Sur Coastal Implementation Plan’s (“CIP”) express prohibition on development on slopes of 30%. (Section 20.145.140.A.4.)

- **Policy 6.1.4.6: Trails should be located in areas able to sustain public use without damage to natural resources or other conflicts. Therefore, new and existing trails should be sited or rerouted to avoid safety hazards, sensitive habitats, and incompatible land uses.**

The proposed trail and parking lot provide a trail connection through a residential neighborhood, which is incompatible with those private uses. Big Sur Volunteer Fire Brigade raised concerns specific to the Project’s impacts to public safety and fire risks, which issues were not addressed in the CCC Letter. The trail is proposed on steep slopes comprising an oak habitat. Oak habitat is considered environmentally sensitive and impacts to the habitat must be considered as part of the Project application review process. Moreover, Smith’s blue butterfly and its habitat have been identified in the Project area (see, Post Ranch Inn HCP, dated June 12, 2006), and the Project’s potential to impact this habitat has not yet been reviewed. Other Project impacts associated with erosion/sedimentation, loss of vegetation and introduction of invasive species must also be addressed.

² Section 3.2.2.1 defines critical viewshed as follows: “ everything within sight of Highway 1 and major public viewing areas including turnouts, beaches and the following specific locations Soberanes Point, Garrapata Beach, Abalone Cove Vista Point, Bixby Creek Turnout, Hurricane Point Overlook, upper Sycamore Canyon Road (Highway 1 to Pais Road), Pfeiffer Beach/Cooper Beach, and specific views from Old Coast Road as defined by policy 3.8.4.4.”

Joe Sidor & Wendy Strimling
April 8, 2015
Page 5

- **Policy 6.1.4.7: The provision of new access or formalization of existing access is to be guided by detailed management plans, including implementation responsibilities. These should include community ideas and desires to guarantee quality land preservation, be consistent with Coastal Act policies, and must attempt to positively resolve access conflicts with residential land uses. It is the County's policy to work closely with local citizen advisors and public agencies in planning for access and management.**

No detailed management plan has been prepared for the parking lot, new trail and signs. It is clear from the comment letters sent opposing this Project that the parking lot, new trail connector and signs would conflict with residential land uses. It is also clear that no public agency is willing to take on management responsibilities of the new trail. This trail will become one of many trampling and dumping grounds where sensitive resources continue to be damaged and trash continues to accumulate. Illegal camping and campfires are rampant on public trails. As required in this policy, security and management of the trail and parking lot must be addressed in a detailed management plan.

- **Policy 6.1.4.9: In providing for access, the County seeks to ensure that the rights of residents and property owners, including their peace, privacy, safety, health, and property are not jeopardized by unmanaged, inappropriate (as defined in policy 6.1.4.3), or irresponsible public access.**

This policy makes clear that the County is obligated to ensure that Big Sur residents' safety, health and welfare and property rights are fully considered before allowing new public access.

It is important to point out that conditions of approval are not automatically considered part of the original approval, nor are they automatically considered to have been reviewed for environmental impacts as part of the original approval. For example, the recent Pebble Beach Project triggered, as a condition of approval, the development of affordable housing, which required a separate approval and review under CEQA. If Monterey County and the CCC wish to exempt all conditions of approval from the CDP requirement, then Title 20 of the Monterey County Code should be amended to include such blanket exemption.

In summary, Monterey County has jurisdiction over this Project application and has a duty to act consistent with the Coastal Act; the LCP; and CEQA. Accordingly, Monterey County has a duty to require a CDP and perform associated consistency and environmental

Joe Sidor & Wendy Strimling
April 8, 2015
Page 6

reviews, because the Project is not exempt.³ Relying on the CCC Letter is not enough for Monterey County to be excused from performing that legal duty.

B. The Assertion that New Trail Segment, Parking Lot and Signs Will Not Overburden of the Easement is Untenable.

Despite the proposal to add a new parking lot, a new trail segment and new signs, the CCC Letter states the level of trail use of Coast Ridge Road will remain the same. If that is true, why is there an interest in pursuing the Project? It is evident that the purpose of the new trail segment, parking lot and signs is to encourage additional public use of the trail.

An unreasonable increase of the burden may ripen into a prescriptive right and is a nuisance that can be and will likely be enjoined by the owners of the servient tenements. A material increase in the use can also result in the forfeiture or extinguishment of the easement.

C. The CCC Letter Unreasonably Attacks LUAC's Recommendations when LUAC Has Acted Within Their Authority.

The CCC Letter unreasonably attacks the Big Sur Land Use Advisory Committee ("LUAC") for making recommendations to Monterey County's decision makers on issues important to Big Sur. As adopted by the Monterey County Board of Supervisors on November 18, 2008, and amended on December 16, 2014, the relevant purposes of a LUAC as set forth in the *Monterey County Land Use Advisory Committee Procedures* include the following:

- Reflect the perspective of the local community with focus on neighborhood character, unique community site and conditions and potential local effects or contributions that would likely result from the implementation of a proposed project.
- Perform such other review of land use issues as may be requested from time to time by the Planning Commission or the Board of Supervisors.
- Provide a venue for project neighbors to provide input on proposed projects.
- Identify concerns in response to staff-provided scope of review on neighborhood, community and site issues excluding regional impacts which are the purview of the Appropriate Authority. (Section 1.)

³Under Monterey County Code § 20.70.120.B.6, the maintenance, alteration, or addition to existing structures are not exempt from a CDP if any improvement to a structure increases the intensity of use of the structure or changes the nature of the use. Addition of parking lot that allows for overnight parking, new trail connector and signs constitute both change in the nature of the use and change in intensity of use.

Joe Sidor & Wendy Strimling
April 8, 2015
Page 7

The Big Sur LUAC provided their recommendations on the Project that came before them. The LUAC did not act outside their authority. They are a recommending body, which upon a review of the Project application, made recommendations that reflected the perspective of the local community. LUACs were formed specifically for that purpose.

The LUAC made recommendations to allow the Project to be consistent with the LCP, which was criticized by the CCC staff in the CCC Letter as follows:

Although the recommendation is outside of the scope of the Design Approval, the LUAC also stated that a public access management is required. The LCP requires such plans only in limited cases.

The LCP policy at issue is clear and unambiguous. The policy clearly does not state that detailed management plan is required only in limited cases:

Policy 6.1.4.7: The provision of new access or formalization of existing access is to be guided by detailed management plans, including implementation responsibilities.

The rationale for this policy is provided in the LCP narrative, which states, in relevant part, the following:

Many access sites along the coast have experienced degradation from unmanaged use or overuse. Unplanned and unmaintained trails have led to trampling of vegetation, soil compaction, and visual scarring of the bluffs. Problems of litter and sanitation occur at beaches in private ownership with frequent public use. The impact of all of this is the lessening of the quality of the recreational experience for the visitors, as well as degradation of the natural resources of the coastline.

The CCC, with their closest office in Santa Cruz, is not intimately familiar with many of the complex issues in Big Sur and should welcome input, rather than criticize the LUAC.

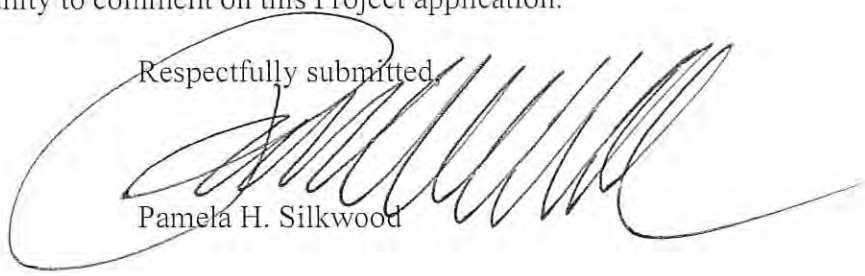
In conclusion, the assurances provided to Monterey County in the CCC Letter are disingenuous, since CCC is not exposed to liability. The burden is on Monterey County to act consistently with the Coastal Act; the LCP; and CEQA, and require a detailed access management plan as part of a new CDP application. Only after consistency and environmental reviews that are deliberated before the public in public hearings can Monterey County be assured that it has acted consistent with these laws, regulations, program and policies.

Joe Sidor & Wendy Strimling
April 8, 2015
Page 8

We appreciate this opportunity to comment on this Project application.

Respectfully submitted,

Pamela H. Silkwood

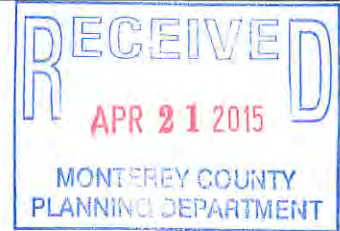
A large, stylized handwritten signature in black ink, consisting of several loops and flourishes, positioned over the typed name.

PHS/dkp
cc: Clients
Supervisor Potter

4827-3915-5490, v. 1

Sidor, Joe (Joseph) x5262

From: Mike Freed [mike@postranchinn.com]
Sent: Tuesday, April 21, 2015 1:18 PM
To: Sidor, Joe (Joseph) x5262
Cc: PSilkwood@horanlegal.com; John Cluett
Subject: Hearing before zoning administrator / offer to dedicate
Attachments: 1986_66047 offer of dedication.pdf; ATT00001.htm



Dear Joe - I am attaching a copy of the Offer to Dedicate the Public Access Easement and Declaration of Restrictions the document that created Ventana's obligation to donate trail easements on their property, which are subject to the meeting before the Zoning Administrator. I would appreciate it if you would add this document to the staff report and point out to the Zoning Administrator that paragraph 6 provides in part:

"The People of the State of California shall accept this Offer through the local government in whose jurisdiction the Property lies, or through a public agency or private association acceptable to the Executive Director of the Commission. . . "

In addition, paragraph 11 of the Offer to Dedicate states:

"The Grantee's representative shall have complete responsibility for the operation, repair, maintenance and control of the Trail." Since the public agency or private association acts as the Grantee, it would be helpful to know which public agency or private association is accepting responsibility over the Trail. In addition, I would suggest that this public agency or private association's name be added to all of the signs, so that the public has someone to contact in case of emergency.

Thank you.

Best,
Mike

66047

ALL 2033 PAGE 949

Recording Requested by and
When Recorded Mail to:CALIFORNIA COASTAL COMMISSION
631 Howard Street, 7th Floor
San Francisco, California 94105
Attn: Legal Department

R	18
M	1
RF	16
T	35

Harry Fish
DEC 5 4 36 PM '86

RECEIVED
OFFICE OF THE CLERK
SAN FRANCISCO, CALIFORNIA

IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

(Coast Ridge Road)

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS (hereinafter "Offer") is made this 5th day of November, 1986, by Ventana Inc., Inc., a California corporation (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 Monterey, State of California, and described in the attached Exhibit A (hereinafter referred to as the "Property");

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");

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

REL 2033 PAGE 950

be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code;

IV. WHEREAS, pursuant to the Act, Grantor applied to the Commission for a permit to undertake development as defined in the Act within the Coastal Zone of Monterey County (hereinafter the "Permit");

V. WHEREAS, a coastal development permit (Permit No. 3-82-171) was granted on October 13, 1982, and Permit no. 3-82-71A on June 10, 1986 by the California Coastal Commission in accordance with the Staff Recommendation and Findings attached as Exhibit B to Irrevocable Offer to Dedicate Public Access Easement and Declaration of Restrictions (25 Foot Corridor) Instrument No. 664 and incorporated herein by this reference, subject to the following condition:

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

a. A coastal lateral access pedestrian and equestrian easement the length of the permittee's properties from the northern property boundary to the southern property boundary. Except for minor modifications to avoid existing or permitted structures, such easement shall be 25 ft. minimum in width and shall be designed to connect Pfeiffer-Big Sur State Park to the proposed Ventana picnic area and Coast Ridge Road in a manner which avoids exposure of pedestrians to traffic on State Highway Route 1. Wherever physically

-2-

22R13.1

REEL 6033 PAGE 954

feasible, the easement shall also be designed to allow trail location on a separate alignment where parallel to the Ventana campground/restaurant entrance road(s), and to allow connection with future coastal lateral access easement, if any, which may be located on lands adjacent to the southern-most boundary of permittee's southernmost parcel.

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

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

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

VI. WHEREAS, the subject property is a parcel optimally located to provide a segment of a trail along the old Coast Ridge Road to be used for public recreation and access, and

-3-

22R13.2

RLLE 2033PAGE 952

under the policy of Section 30223 of the California Coastal Act of 1976 upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible;

VII. WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access through the Coastal Zone is to be maximized;

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Section 30210 through 30212 and 30223 of the California Coastal Act of 1976; and

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

NOW THEREFORE, in consideration of the granting of Permit No. 3-82-171 to Grantor by the Commission, Grantor hereby offers to dedicate to the People of the State of California or a public agency or a private association acceptable to the Executive Director of the Commission an easement in perpetuity for the purposes of constructing and maintaining for public use a pedestrian and equestrian trail (the "Trail") located along Coast Ridge Road and as specifically set forth on Exhibit B attached hereto and incorporated herein by this reference and

22R13.2

ELL 2033 PAGE 953

as located along Ventana's relocated entrance road as specifically set forth on Exhibit C hereto and incorporated herein by reference.

1. 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 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 successors and assigns. This Offer shall benefit the People of the State of California.

2. DECLARATION OF RESTRICTIONS. The Grantor is restricted from interfering with the use by the public of the area subject to the offered easement for public access. This restriction shall be effective from the time of recordation of this Offer and Declaration of Restrictions.

3. ADDITIONAL TERMS, CONDITIONS, AND LIMITATIONS. Prior to the opening of the accessway, the Grantee, in consultation with the Grantor and the Commission, may record additional reasonable terms, conditions and limitations on the use of the Property in order to assure that this Offer for a public access is effectuated.

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

-5-

22R13.2

REEL 2033 PAGE 954

5. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations and reservations contained in this Offer 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.

6. TERM. This irrevocable offer of dedication shall be binding for a period of twenty one (21) years. Upon recordation of an acceptance of this Offer by the Grantee, this Offer and the terms, conditions and restrictions herein shall have the effect of a grant of access easement in gross and perpetuity that shall run with the land and be binding on the parties, their heirs, assigns and successors. The People of the State of California shall accept this Offer through the local government in whose jurisdiction the property lies, or through a public agency or a private association acceptable to the Executive Director of the Commission (the "Executive Director"), or its successor in interest.

Acceptance of this offer is subject to a covenant which runs with the land, providing that any offeror to accept the easement may not abandon it but must instead offer the easement to other public agencies or private associations acceptable to the Executive Director for the duration of the term of the original offer.

7. DESIGN AND CONSTRUCTION OF THE TRAIL. Grantor and Grantee and the Executive Director shall agree (such agreement not to be unreasonably withheld or delayed by any party) on the

- 6 -

22R13.2

NLLI 2033 PAGE 955

exact location and design of the Trail, which shall be constructed by Grantee or Grantee's representative at Grantee's or Grantee's representative's expense. The width of the Trail shall generally not exceed five (5) feet except where a greater width is needed to conform with the standards of construction for similar trails in nearby National Forest lands as published by the United States Forest Service.

8. DEVELOPMENT WITHIN THE EASEMENT. Prior to the time when the Trail construction is commenced, Grantor agrees that it shall submit any plans for development within the easement to the Executive Director for his prior, written approval, so as not to interfere with potential trail routes.

9. REVISED DESCRIPTION OF EASEMENT. Upon acceptance of the easement and completion of construction of the Trail by an appropriate public agency or private association, the easement granted for the properties described herein on Exhibit "B" shall be reduced to twenty-five (25) feet in width. A revised description of the easement shall be promptly recorded and this original description shall be vacated.

10. PROHIBITED USES OF TRAIL. Except where existing or permitted roads coincide with or cross the trail, use of the Trail shall at all times be restricted to pedestrian and equestrian traffic. No vehicular traffic (other than that of vehicles owned by a governmental agency) shall be permitted on the Trail. Camping in or adjacent to the Trail shall not be permitted without consent of both the Grantor and the Grantee.

-7-

22R13.2

REEL 2033 PAGE 956

or its designee. Grantor agrees that at no time shall any signs or barriers be constructed, placed, posted or erected upon, across, or in view of the Trail which might indicate to the public that access to the Trail is restricted, except as to signs warning of officially declared emergency conditions.

11. RESPONSIBILITY FOR TRAIL. The Grantee's representative shall have complete responsibility for the operation, repair, maintenance and control of the Trail.

Executed on this 17th day of November, 1986, at San Francisco California.

VENTANA INN, INC.
OWNER, a California
corporation

By: *[Signature]*

Its: *[Signature]*

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it

22R13.2

-8-

RLL 2033 PAGE 957

granted Coastal Development Permit No. 3-82-171 on October 13,
1982, and the California Coastal Commission consents to
recording thereof by its duly authorized officer.

Dated: *December 5*, 1986

California Coastal Commission

By: *Judith W. [Signature]*Title: *Staff Counsel*

[ALL SIGNATURES MUST BE ACKNOWLEDGED]

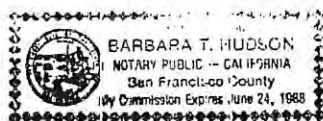
22R 3.2

- 9 -

REC 2023 PAGE 958

STATE OF CALIFORNIA)
COUNTY OF San Francisco) SS.

On December 5, 1986, before me Barbara T. Hudson, a Notary Public, personally appeared John W. Allen, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed this instrument as the Staff Counsel, and authorized representative of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.

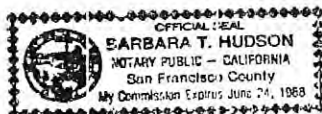


Barbara T. Hudson
Notary Public in and for said
County and State

STATE OF California)
COUNTY OF San Francisco) SS.

On this the 5th day of December, 1986, before me, Barbara T. Hudson, the undersigned Notary Public, personally appeared Harry Lee, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed this instrument as Vice President or on behalf of Ventana Inn, Inc., and acknowledged to me that the corporation executed it.

WITNESS my hand and official seal.



Barbara T. Hudson
Notary's Signature

-10-

22R13.2

EXHIBIT "A"

REEL 2033 PAGE 959

Situate in the County of Monterey, State of California, to-wit:

PARCEL 1:

Certain real property situate in the County of Monterey, State of California being a portion of Sections 32 and 33 in Township 19 South, Range 2 East, M. D. B. & M., and a portion of Section 5 in Township 20 South, Range 2 East, M. D. B & M., said portion being particularly described as follows:

BEGINNING at the most westerly corner of that certain parcel of land described in deed from Joseph W. Post, Jr., et al, to John H. Ramistella dated November 20, 1968 and recorded November 21, 1968 in Reel 582 of Official Records of Monterey County at page 156. Said parcel described in deed to Ramistella being shown on that certain Record of Survey Map filed in Volume 8 of Surveys at page 136, Monterey County Records, and said point of beginning being marked by a 2" capped iron pipe "LS 2746" as shown on said Record of Survey Map; thence following the northeasterly line of the California State Highway (bearings of the following six courses being 1° 43' 50" clockwise of those stated on the highway deed), said northeasterly line being the northeasterly boundary of the strip of land 80 feet wide described in deed to the State of California for highway purposes, from Joseph W. Post, et al, dated February 7, 1936 and recorded March 10, 1936 in Volume 469 of Official Records of Monterey County at page 387.

N. 17° 34' 40" W., 108.48 feet; thence

Northwesterly along a tangent curve to the left with a radius of 380 feet, through a central angle of 43° 53' for an arc distance of 291.05 feet; thence tangentially

N. 61° 27' 40" W., 86.43 feet; thence

Northwesterly along a tangent curve to the right with a radius of 360 feet, through a central angle of 27° 46' for an arc distance of 174.46 feet; thence tangentially

N. 33° 41' 40" W., 324.36 feet; thence

Northwesterly along a tangent curve to the right with a radius of 360 feet, through a central angle of 23° 17' 40" for an arc distance of 146.56 feet; thence (bearings of the following fourteen courses being 1° 40' 20" clockwise of those stated on the highway deeds of record)

N. 3° 43' 20" E., non-tangentially to the preceding course and following the easterly line of the 60 foot wide strip of land described to the State of California for road purposes by deed from J. W. Post dated July 12, 1922 and recorded December 26, 1922 in Volume 10 of Official Records of Monterey County at page 130. 299.71 feet; thence again along the easterly boundary of said 80 foot highway strip

N. 6° 50' 20" E., 77.44 feet; thence

Northerly along a tangent curve to the left with a radius of 640

Continued-----

EXHIBIT A

EXHIBIT "A"
Parcel 1, Cont'd

NEEL 2033PAUL 960

feet through a central angle of $10^{\circ} 23' 25''$ for an arc distance of 116.06 feet; thence non-tangentially and again along the easterly line of said 60 foot highway strip

N. $3^{\circ} 43' 20''$ E., 111.30 feet; thence

Northerly and northwesterly along a tangent curve to the left with a radius of 230 feet, through a central angle of $49^{\circ} 44' 30''$ for an arc distance of 199.68 feet; thence tangentially

N. $46^{\circ} 01' 10''$ W., 72.15 feet; thence

N. $26^{\circ} 53' 10''$ W., again along the easterly boundary of said 80 foot highway strip, 149.18 feet; thence again along the easterly line of said 60 foot highway strip

Northerly along a non-tangent curve to the right with a radius of 220 feet, through a central angle of $0^{\circ} 27' 22''$ for an arc distance of 1.75 feet to a point of reverse curvature from which the center of said curve of radius 220 feet bears N. $83^{\circ} 22' 50''$ E., thence

Northwesterly along a tangent reverse curve to the left with a radius of 310 feet through a central angle of $30^{\circ} 23' 15''$ for an arc distance of 164.41 feet to the southerly boundary of that certain parcel of land described in deed from Joseph W. Post, et al, to the State of California dated June 4, 1937 and recorded in Volume 536 of Official Records of Monterey County at page 203; thence following the boundary of said last described parcel

N. $73^{\circ} 02' 20''$ E., 166.19 feet; thence

N. $18^{\circ} 11' 40''$ W., 126.53 feet; thence

N. $81^{\circ} 46' 40''$ W., 61.40 feet; thence

N. $10^{\circ} 20' 40''$ W., 192.15 feet; thence

N. $19^{\circ} 34' 40''$ W., 308.99 feet to intersection of said highway parcel boundary with the north line of the south half of the southeast quarter of said Section 32, Township 19 South, Range 2 East, M. D. B. & M., thence leaving the easterly line of said State Highway as shown on said highway map

S. $88^{\circ} 05' 05''$ E. along said north line of the south half of the southeast quarter of Section 32, a distance of 2603.00 feet to the section line between Sections 32 and 33, T. 19 S., R. 2 E., at the northwest corner of the south half of the southwest quarter of Section 33; thence

S. $87^{\circ} 23' 33''$ E., along the north line of the south half of the southwest quarter of Section 33, a distance of 1,170.04 feet to the Northwest corner of that certain parcel of land described in the Deed

Continued-----

(REEL 2633 PAGE 961

to Zad Leavy, et al., recorded October 20, 1972 in Reel 804 at Page 990, Monterey County Records; thence leaving said North line, and running along the boundary lines of said Leavy parcel the following courses and distances, S. 20° 38' W. 188.58 feet; thence S. 32° 23' 20" W. 198.23 feet; thence S. 61° 20' E. 455 feet; thence N. 86° 18' E. 218.98 feet; thence N. 80° 48' E. 364.04 feet; thence N. 2° 02' 11" E. 438.17 feet to said North line of the South Half of the Southwest quarter of Section 33; thence along said North line S. 87° 23' 31" E. 183 feet; thence leaving said North line S. 2° 02' 11" W. 1326.21 feet to the South line of Section 33 and Township line between Townships 19 South, Range 2 East and 20 South, Range 2 East, said line being the Northerly boundary of said parcel described in Deed to Ramistella; thence along said Township line and Ramistella boundary N. 87° 27' 49" W. 370.47 feet to the Southeast corner of that certain parcel of land described in the Deed to Anne Cole recorded May 12, 1972 in Reel 771 at Page 458, Monterey County Records; thence along the Easterly and Northerly lines of said Cole parcel the following courses and distances N. 2° 02' 11" E. 250 feet; thence N. 13° 41' 20" W. 511 feet; thence S. 56° 20' W. 200 feet; thence S. 83° 13' 40" W. 438.72 feet to the Northeast corner of that certain parcel of land described in the Deed to William B. Burleigh and Sam L. Foster recorded April 26, 1973 in Reel 342 at Page 112, Monterey County Records; thence along the Northerly lines of said Burleigh parcel the following courses and distances, S. 44° 30' 40" W. 198.31 feet; thence N. 82° 54' 40" W. 230 feet; thence N. 49° 31' 15" W. 270.02 feet; thence S. 41° 44' W. 135.61 feet; thence S. 21° 16' 40" W. 128.30 feet to the Southeast corner of that certain parcel of land described in the deed to Lawrence A. Spector recorded February 24, 1975 in Reel 961 at Page 561, Monterey County Records; thence along the boundary lines of said Spector parcel the following courses and distances, N. 43° 10' W. 480 feet; thence N. 76° 39' 10" E. 814 feet; thence N. 13° 20' 50" W. 245.19 feet; thence N. 87° 23' 31" W. 781.31 feet; thence S. 25° 00' W. 520 feet; thence S. 43° 00' E. 564.05 feet to the Westerly line of said Burleigh parcel; thence leaving said Spector parcel and following the Westerly line of said Burleigh parcel the following courses and distances, S. 15° 12' 20" W. 92.18 feet; thence S. 67° 48' 50" W. 341.40 feet; thence South 60 feet; thence S. 82° 20' E. 170 feet; thence S. 70° 30' E. 60 feet to the aforementioned South line of Section 33; thence leaving said Westerly line of Burleigh and running along the Northerly line of the aforementioned Ramistella parcel (Reel 582 Page 156), N. 87° 27' 49" W. 156 feet to 2" capped iron pipe 'LS 2746" marking the common corner of Sections 32 and 33, T. 19 S., R. 2 E., and Sections 4 and 5, T. 20 S., R. 2 E., as shown on said Records of Survey to which reference is above made; thence leaving said township line, but continuing along the boundary of said parcel described in deed to Ramistella

Continued-----

REEL 2033 PAGE 962

S. 2° 31' 07" W., 1293.15 feet to 2" capped iron pipe "LS 2716" shown on said Record of Survey Map; thence N. 88° 19' 47" W., 1557.38 feet to the point of beginning.

EXCEPTING THEREFROM 1/10th interest in Spring Lot described in the deed from Big Sur Ventana Corporation, a California corporation, to Anne Cole, a single woman, dated May 1, 1972 and recorded May 12, 1972 in Reel 771 of Official Records of Monterey County at Page 458.

RESERVING THEREFROM a non-exclusive right of way for road and utilities purposes over a strip of land 60 feet wide lying 30 feet on each side of the centerline described in courses 1 through 28 of the Course Table shown on said map.

PARCEL II:

Non-exclusive right of way 60 feet wide for road purposes for ingress and egress as set forth in the deed from John H. Ramistella to Big Sur Ventana Corporation, a California corporation, J. William Post, Jr., J. William Post and Mary Post Pletcher, dated July 20, 1972 and recorded August 23, 1972, in Reel 792 of Official Records of Monterey County at Page 988.

PARCEL III:

Non-exclusive right of way 30 feet wide for road and utilities purposes as reserved in the deed from Big Sur Ventana Corporation to Anne Cole a single woman, dated May 1, 1972 and recorded May 12, 1972, in Reel 771 of Official Records of Monterey County at Page 458.

PARCEL IV:

Non-exclusive right of way for road and utilities purposes as reserved in the deed from Big Sur Ventana Corporation, a California corporation to Zed Leavy and Ladia Leavy, husband and wife, as Joint Tenants, dated October 6, 1972 and recorded October 20, 1972, in Reel 804 of Official Records of Monterey County at Page 990.

PARCEL V:

Non-exclusive right of way over that portion of the 60' right of way described by the centerline set forth in the Course Table of said Survey Map, filed in Volume 10 of Surveys at Page 100, lying within the boundary of the Spector parcel abovementioned (Reel 961, Page 561).

PARCEL VI:

Non-exclusive right of way for road and utility purposes as reserved in the deed to William B. Burleson and Ida L. Foster recorded April 26, 1973 in Reel 842 at Page 1112, Monterey County Records.



**RASMUSSEN
LAND SURVEYING, INC.**
350 HARTWELL, SUITE 2, MONTEREY, CALIFORNIA 93940
408/245-7240

Lease: 8

REEL 2033 PAGE 963

March 13, 1985

Portion of Forest Service Right of Way within the present
Ventana property:

All that portion lying within the parcel or tract of land described in EXHIBIT A attached hereto, of the Road Right of way 60 feet wide conveyed to the United States of America by deeds recorded in Volume 707 at Page 13 and Volume 792 at Page 988, Official Records of the County of Monterey, State of California, which Right of Way is shown on the Record of Survey filed for record in Volume 10 of Surveys at Page 100, Records of said County, with a Course Table of 40 courses for the centerline of said Right of Way.

EXHIBIT A

That certain parcel of land, in the County of Monterey, State of California, described in deed from Joseph W. Post et al to Big Sur Ventana Corporation, dated January 14, 1972 and recorded January 17, 1972 in Reel 747 of Official Records of the County of Monterey, at Page 239.

Excepting therefrom:

Parcel 1 and Parcel 11 as shown on Parcel Map filed for record in Volume 2 of Parcel Maps at Page 56, Records of said County.

Parcel A as shown on Parcel Map filed for record in Volume 3 of Parcel Maps at Page 13, Records of said County.

Parcel 1 as shown on Parcel Map filed for record in Volume 9 of Parcel Maps at Page 191, Records of said County.

Delwyn C. Rasmussen

Delwyn C. Rasmussen
Licensed Land Surveyor

LAND PLANNING • SURVEYING • BOUNDARY SURVEY
AERIAL PHOTOGRAPHY AND MAPPING



RASMUSSEN
LAND SURVEYING, INC.

EXHIBIT C

REVISED Nov. 5, 1986

REEL 2033 PAGE 964

Description of Pedestrian and equestrian easement in Ventana, to connect, along route of proposed relocated entrance, with old route.

An easement for public use, for pedestrian and equestrian traffic, over a portion of that certain parcel of land described in deed from Joseph W. Post et al to Big Sur Ventana Corporation, dated January 14, 1972 and recorded January 17, 1972 in Reel 747 of Official Records of the County of Monterey, State of California, at Page 239, which parcel of land is shown on that certain Record of Survey Map filed in Volume 10 of Surveys at Page 100, Monterey County Records, said portion being a strip of land 20 feet wide lying 10 feet on each side of the following described line:

Beginning at a point on course numbered (7) of the boundary of said parcel of land described in said deed, distant thereon N. 3° 43' 20" E., 195.00 feet from the southerly terminus of said course, said boundary here being the easterly line of California State Highway V-Mon-36-E (State Route No. 1); thence, leaving said highway line and boundary

- (1) S 61° 43' E., 38.73 feet; thence
- (2) S 16° 33' E., 38.60 feet; thence
- (3) S 19° 54' W., 61.68 feet; thence
- (4) S 5° 38' E., 71.34 feet; thence
- (5) S 24° 08' E., 31.78 feet; thence
- (6) S 47° 17' E., 88.46 feet; thence
- (7) S 30° 39' E., 125.54 feet; thence
- (8) S 51° 35' E., 37.01 feet; thence
- (9) S 76° 14' E., 96.27 feet; thence
- (10) S. 56° 00' E., 120.00 feet; thence
- (11) S. 25° 00' E., 100.00 feet; thence

(12) S. 37° 58' 30" E., 133.87 feet, to the centerline of the road and utilities right of way 60 feet wide, described as the first reservation in said deed, at the angle point joining courses numbered (4) and (5) of said right of way centerline, said right of way being along the route described in Right of Way Deed from J. W. Post, Sr. et al to the United States of America, dated November 14, 1940 and recorded February 20, 1941 in Volume 707 of Official Records of Monterey County at Page 103.

D. C. Rasmussen

D. C. Rasmussen

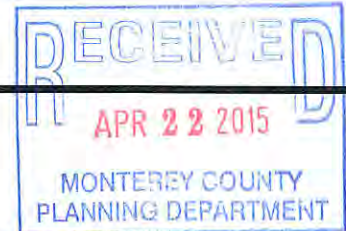
Licensed Land Surveyor #2639

LAND PLANNING • SURVEYING • BOUNDARY SURVEY
AERIAL PHOTOGRAPHY AND MAPPING

END OF DOCUMENT EXHIBIT C

Sidor, Joe (Joseph) x5262

From: John Cluett [marblepeak@wildblue.net]
Sent: Wednesday, April 22, 2015 1:13 AM
To: Sidor, Joe (Joseph) x5262
Subject: PLN140729 - Letter from North Coast Ridge Road parties
Attachments: KarstensLetter.pdf; ATT00001.htm; LUAC_BIGSUR_MINUTES_011315.pdf; ATT00002.htm; 1986_66047 offer of dedication.pdf; ATT00003.htm



Dear Ms. Onciano:

This letter is signed by most of the North Coast Ridge Road residents, stakeholders, property owners and signatories to the 1993 Limited Easement Agreement with the United States Forest Service (copy attached).

That easement was created out of the generosity and public spirit of the property owners, who initiated the plan and donated a public pedestrian and equestrian easement over the North Coast Ridge Road where none had ever existed before. Even so, some have suggested that we placed the signs at the bottom of the road to deter the public from entering. In fact those signs were designed, worded and installed solely by the United States Forest Service, not the property owners; and while the Forest Service's intention was to restrict only vehicular access, we have proposed redesigned signs (see attachment) that make it clear that the road is open to the public for hiking and horseback riding. So first let us be clear with you, the California Coastal Commission and Monterey County that we are now, and have always been, in support of public pedestrian and equestrian access on North Coast Ridge Road. After all, we are the ones who created it!

We are asking you to accept the recommendations of the Big Sur Land Use Advisory Committee (BSLUAC) because we believe they are a measured interim response while the County puts this project through the requisite process with proper notices and hearings. Certainly the implementation of the Commission's orders to erect numerous signs on Highway One and on Ventana property, construct a trailhead parking lot and build access trails will attract more of the public and thereby expand use of the easement. And under the Big Sur Land Use Plan (BSLUP) (Secs. 6.1, 6.1.2, 6.1.3, 6.1.4) and the Monterey County Implementation Ordinance (MCIO) (Sec. 20.145.150), the creation or expansion of public access over private property requires an Access Management Plan. And an integral part thereof is the "acceptance by a public agency or a private association" of responsibility for its management. Even Ventana's "1986 Irrevocable Offer to Dedicate" (attached) at Para. 11 requires the Grantee to have a representative who has accepted "complete responsibility for the operation, repair, maintenance and control of the Trail." As far as we know, no public agency or private association has accepted such management responsibility, much less acquired the funding therefor.

What BSLUAC is recommending is consistent with both the Offer to Dedicate, the BSLUP and the MCIO, in that until such time as an Access Management Plan is adopted and a public agency or private association accepts the management of the public access over North Coast Ridge Road,

- a. new signage will be minimized or postponed as shown,
- b. the USFS signs will be redesigned as shown so as to clearly permit pedestrian and equestrian use and have lesser visual impact, and
- c. while day use of the Cadillac Flat parking is encouraged, signage would direct overnight parking for back country camping to the Big Sur Station, where a single entry point allows for reasonable control, dissemination of information, issuance of campfire permits, etc.

Why do the North Coast Ridge Road property owners among others in the Big Sur community want the conditions outlined above? The answer is simple - expanded and unmanaged public access - particularly when properly managed access already exists at the nearby Big Sur Station - is inappropriate and unsafe.

A letter (attached) from Fire Chief Martha Karstens of the Big Sur Volunteer Fire Brigade states:

"Because there will be no registration, hikers will not be getting information on the appropriate use of campfires. . . By setting up another 'trail head' this will be funneling yet more people into extremely fire prone areas. These areas, unlike the Pine Ridge trail have homes near the road. . .

" We already have problems with hikers building campfires off areas like Plaskett Ridge Road and I see this as the same attractive nuisance with potentially devastating consequences."

We leave you with one last thought, which is contained in the Monterey County Implementation Ordinance 20.145.150:

“Because preservation of the natural environment is the highest priority, all future access must be consistent with this objective. Care must be taken that while providing public access, the beauty of the coast, its tranquility and the health of its environment are not marred by public overuse and carelessness.”

It is the position of the undersigned that unless BSLUAC's recommendations are implemented, public overuse will occur, and with it the greater likelihood of carelessness causing damage to the environment, exposing property owners and the public alike to increased hazards and liabilities, and substantially increasing the fire risk to the entire Big Sur community.

For these reasons we request that the Zoning Administrator accept the recommendations of BSLUAC. In addition, we ask that this process be properly re-initiated with a Coastal Development Permit application for the Access Management Plan, which should be remanded to the BSLUAC, as we believe that before the signage, trails and parking lot can be constructed, a Coastal Development Permit - with the requisite public notice and hearings, traffic and environmental studies - must be obtained.

Sincerely,

Cyril Chappellet
John Cluett
Mike Freed
Lydia Graham
John Harrington
Michael Harrington
Soaring Jenkins-Starkey
Salvatore Lucido
John McLellan
Mike Niemann
Sharon O'Grady
Branham Rendlen
William F. Rodgers
Kelly Sorenson, Ventana Wilderness Society
Isa Starkey
Bob Thompson
Paul Junger Witt
Ken Wright



Forty years of Fire Service

January 11, 2015

Dear Members of LUAC:

This letter is to express some of my concerns from the Big Sur Volunteer Fire Brigade regarding the proposed signage directing yet more people to the area of the North Coast ridge road, (NCRR).

- #1. There will be no registration of hikers going into the back country; this information could be vital in order to locate lost and or injured hikers.
- #2. Because there will be no registration, hikers will not be getting information on the appropriate use of campfires, the need for a permit, and if they are even allowed. By setting up another "trail head" this will be funneling yet more people into extremely fire prone areas. These areas, unlike the Pine Ridge trail have homes near the road.
- #3. We already have problems with hikers building campfires off areas like Plaskett Ridge Road and I see this as the same attractive nuisance with potentially devastating consequences.
- #4. The condition of the NCRR is in such bad shape, recently impassable, that we won't have any guarantees we could even access a victim or a campfire. The BSVFB will be the ones called out to handle any of these very possible scenarios increasing risk of Firefighter safety.
- #5. With the increased hiker traffic there could be an additional potential for robberies to the homes located alongside the road.
- #6. There will need to be trails carved on the side hill right above the parking area potentially causing erosion and the introduction of invasive species where there already exists a perfectly good road that people can walk on to the start of the NCRR
- #7. Who will monitor and patrol this back country parking lot to prevent overnight, or longer, camping, and clean it up.
- #8. There will be more signs on the highway which is discouraged by the Big Sur Land Use Plan.
- #9. Are rest room facilities going to be available, if so who will maintain them. Will water be available?

Sincerely,

Martha Karstens, Chief