

MONTEREY COUNTY PLANNING COMMISSION

Meeting: June 8, 2011	Time: 9:30 A.M.	Agenda Item No.: 3
Project Description: Zoning Reclassification to rezone an approximately 2 acre parcel from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification.		
Project Location: west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur area		APN: 243-251-014-000
Planning File Number: PLN110196		Owner: State of California Agent: California Coastal Conservancy
Planning Area: Big Sur Coast Land Use Plan		Flagged and staked: No
Zoning Designation: : WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone]		
CEQA Action: Exempt per CEQA Guidelines Section 15308		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit A**) recommending that the Board of Supervisors adopt an ordinance to amend Section 20.08.060 of Title 20 (zoning) of the Monterey County Code reclassify a 2-acre parcel from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] to "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone].

PROJECT OVERVIEW:


On May 11, 1988, the Monterey County Planning Commission approved a Coastal Development Permit (Resolution No. 88-140) designating the Kasler Point Parcel as a donor site, creating two transferable development credits, and retiring the parcel as a buildable parcel. Condition No. 2 in Resolution No. 88-140 required the State of California to request a rezoning of the parcel to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification in order to protect the archaeological resources found on the project site. According to the file, the request was made by the California Coastal Conservancy on June 4, 1990. This is required by Monterey County Code Section 20.145.120.D.2 which states "the applicant shall request a rezoning of the parcel to add an 'HR' (Historical or Archaeological Resources) zoning district to the existing zoning of the parcel. The rezoning shall not necessitate an amendment to the Land Use Plan or to Title 20."

The Monterey County Board of Supervisors accepted an irrevocable offer to dedicate (OTD) an easement in perpetuity for vertical public access on the property on May 24, 2011. Because this vertical access easement could eventually open the parcel to public use, it is necessary to rezone the parcel in order to protect the archaeological resources. In reviewing the file to prepare to accept the OTD, it became clear that the action to rezone the property with an "HR" zoning district overlay had never been completed.

CEQA:

The proposed rezoning is exempt per CEQA Guidelines Section 15308 which exempts actions by regulatory agencies for the protection of the environment where the regulatory process involves procedures for protection of the environment.

/S/ Laura Lawrence



Laura Lawrence, R.E.H.S., Planning Services Manager
(831) 755-5148, lawrencel@co.monterey.ca.us
May 24, 2011

cc: Front Counter Copy; Planning Commission; California Department of Forestry; Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Project Planner; Carol Allen, Senior Secretary; State of California, Owner; California Coastal Conservancy, Agent; Planning File PLN110196

Attachments: Exhibit A Draft Planning Commission Resolution
Attachment "A" – Draft Ordinance with Exhibit 1 (Zoning Map)
Exhibit B Vicinity Map
Exhibit C Planning Commission Resolution No. 88-140

This report was reviewed by Carl Holm, Assistant Director of Planning



EXHIBIT A
DRAFT RESOLUTION TO RECOMMEND AMENDMENT OF LOCAL
COASTAL PROGRAM (ZONING RECLASSIFICATION)
PLN110196/STATE OF CALIFORNIA

RESOLUTION NO. [REDACTED]

Resolution of the Monterey County Planning Commission recommending that the Board of Supervisors adopt an ordinance to amend Section 20.08.060 of Title 20 (zoning) of the Monterey County Code to reclassify a 2-acre parcel from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification.
[PLN110196, State of California, west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur Coast Land Use Plan (APN: 243-251-014-000)]

The amendment to Section 20-29 of the Monterey County Sectional District Maps (Coastal Implementation Plan) to add the HR zoning overlay district to a parcel came on for public hearing before the Monterey County Planning Commission on June 8, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission recommends that the Monterey County Board of Supervisors approve the following amendment with reference to the following facts:

RECITALS

1. In 1988, the Monterey County Planning Commission approved a Coastal Development Permit (Resolution No. 88-140) designating the Kasler Point Parcel as a donor site, creating two transferable development credits, and retiring the parcel as a buildable parcel.
2. The proposed zoning ordinance would reclassify the subject parcel from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification.
3. The subject parcel is located west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur area (APN: 243-251-014-000), in the unincorporated area of Monterey County.
4. Monterey County Code Section 20.145.120.D.2 requires that the applicant request a rezoning of the parcel to add an "HR" (Historical or Archaeological Resources) zoning district to the existing zoning of the parcel. Condition No. 2 in Resolution No. 88-140 required the State of California to request a rezoning of the parcel to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification in order to protect the archaeological resources found on the project site. The request was made by the

California Coastal Conservancy on June 4, 1990. Pursuant to Monterey County Code Section 20.145.120.D.2.b, the rezoning shall not necessitate an amendment to the Land Use Plan or to Title 20.

5. The Monterey County Board of Supervisors accepted an irrevocable offer to dedicate (OTD) an easement in perpetuity for vertical public access on the property on May 24, 2011. Because this vertical access easement could eventually open the parcel to public use, it is necessary to rezone the parcel in order to protect the archaeological resources.
6. The proposed rezoning is exempt per CEQA Guidelines Section 15308 which exempts actions by regulatory agencies for the protection of the environment where the regulatory process involves procedures for protection of the environment.
7. Section 20.08.060 of the Monterey County Coastal Implementation Plan-Part 1 (CIP) references sectional district maps that show the Zoning Plan. Section 20-29 of the Sectional District Maps of the Monterey County Zoning Plan provides a graphic representation of the zoning designations in this portion of the planning area.
8. Pursuant to Public Resources Code sections 30000 et seq., the County may amend the adopted Local Coastal Program provided the County follows certain procedures, including that the County Planning Commission hold a noticed public hearing and make a written recommendation to the Board of Supervisors on the proposed amendment of the CIP portion of the Local Coastal Program (LCP). The proposed change to amend the CIP, reclassify the subject parcel, and apply the "WSC/40-HR" zoning designation over the parcel is consistent with the adopted Land Use Plan (LUP).
9. On June 8, 2011, the Monterey County Planning Commission held a duly noticed public hearing to consider and make recommendations to the Board of Supervisors regarding the proposed zoning ordinance. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the *Monterey County Herald* and were also posted on and near the property and mailed to the property owners within 300 feet of the subject property.
10. The proposed Zoning Ordinance is attached to this Resolution as **Attachment "A"** and is incorporated herein by reference. The ordinance would amend Section 20-29 of the Sectional District Maps of Section 20.08.060 of Title 20 of the Monterey County Code to apply the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification to the subject parcel.
11. Monterey County Coastal Implementation Plan-Part 1 Section 20.94.042 states that zoning designation reclassifications constituting an amendment to this Title and initiated for the purpose of preserving or enhancing the coastal resources including adding any "B", "A", "HR", "Z" overlay zoning designations shall not require certification by the California Coastal Commission.

DECISION

NOW, THEREFORE, the Planning Commission of the County of Monterey, State of California, hereby recommends that the Board of Supervisors adopt an ordinance to amend Section 20.08.060 of Title 20 (zoning) of the Monterey County Code to reclassify a 2-acre

parcel, from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification. The parcel is located west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur Coast Land Use Plan (APN: 243-251-014-000), Coastal Zone, as shown on **Exhibit 1 to Attachment "A"**.

PASSED AND ADOPTED this 8th day of June, 2011 upon motion of Commissioner _____, seconded by Commissioner _____, and passed by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

ATTACHMENT "A"
DRAFT ORDINANCE TO AMEND COUNTY CODE

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 20.08.060 OF TITLE 20 (MONTEREY COUNTY COASTAL IMPLEMENTATION PLAN) OF THE MONTEREY COUNTY CODE TO AMEND THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE COUNTY OF MONTEREY.

County Counsel Summary

This ordinance amends Section 20-29 of the Zoning Maps of the Monterey County Coastal Implementation Plan (Title 20 of the Monterey County Code) to rezone a 2-acre parcel located west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur (APN: 243-251-014-000) from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. ZONING DISTRICT MAP. Section 20-29 of the Sectional District Maps of Section 20.08.060 of the Monterey County Code is hereby amended to change the zoning of a 2 acre parcel located at west of Highway 1 at Abalone Cove, north of Kasler Point, Big Sur (APN: 243-251-014-000) from the "WSC/40 (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone] zoning classification to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification, as shown on the map attached hereto as Exhibit 1 and incorporated herein by reference.

SECTION 2. FINDINGS. The Monterey County Planning Commission approved a Coastal Development Permit (Resolution No. 88-140) designating the Kasler Point Parcel as a donor site, creating two transferable development credits, and retiring the parcel as a buildable parcel. Condition No. 2 in Resolution No. 88-140 required the State of California to request a rezoning of the parcel to the "WSC/40-HR (CZ)" [Watershed and Scenic Conservation, 40 acres per unit, Historic Resources Overlay Zoning District, Coastal Zone] zoning classification in order to protect the archaeological resources found on the project site.

SECTION 3. COASTAL COMMISSION CERTIFICATION. Certification by the California Coastal Commission of the rezoning is not required. Monterey County Coastal Implementation Plan-Part 1 Section 20.94.042 states that zoning designation reclassifications constituting an amendment to this Title and initiated for the purpose of preserving or enhancing

the coastal resources including adding any "B", "A", "HR", "Z" overlay zoning designations shall not require certification by the California Coastal Commission.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day after its adoption by the Board of Supervisors.

PASSED AND ADOPTED on this ____ day of _____, 2011 by the following vote:

AYES: Supervisors
NOES:
ABSENT:
ABSTAIN:

Jane Parker, Chair
Monterey County Board of Supervisors

A T T E S T:

Gail T. Borkowski
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM

Leroy W. Blankenship

LEROY W. BLANKENSHIP
Assistant to County Counsel

EXHIBIT 1

To be Rezoned from
"WSC/40 (CZ)"
to "WSC/40-HR (CZ)"

Pacific
Ocean

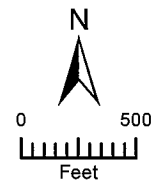
Garrapata Cree

Joshua Creek

PROPOSED REZONING OF SECTION 20-29

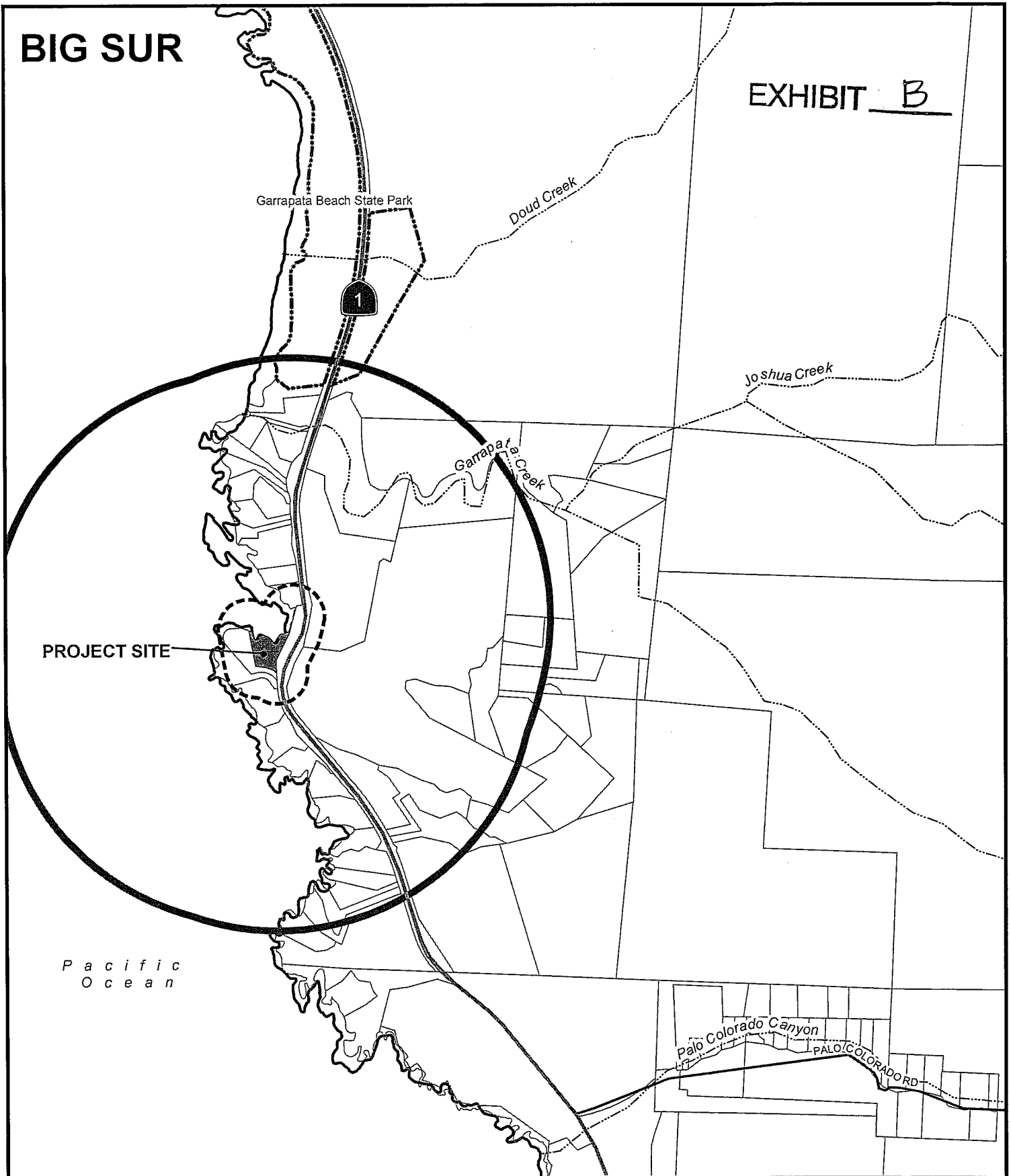
APN: 243-251-014-000

FILE # PLN110196, STATE OF CALIFORNIA



BIG SUR

EXHIBIT B



APPLICANT: STATE OF CALIFORNIA

APN: 243-251-014-000

FILE # PLN110196

Water



2500' Limit



300' Limit



City Limits



0 1,000
Feet



PLANNER: LAWRENCE

PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIAEXHIBIT C

RESOLUTION NO. 88-140

A. P. # 243-251-14

FINDINGS AND DECISION

In the matter of the application of California Coastal Conservancy (PC-6365) for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow designation of a donor site for transfer of development credits, located on Parcel C, portion of Lot 20, Rancho San Jose Y Sur Chiquito, Garapatos area, fronting on and westerly of State Highway 1, Coastal Zone, came on regularly for hearing before the Planning Commission on May 11, 1988.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. FINDING: The Coastal Conservancy project (PC-6365) consists of a Coastal Development Permit to designate the Kasler Point parcel (APN 243-251-14) as a "donor site" pursuant to Coastal Implementation Plan Section 20.156, thereby creating two transferable development credits and retiring the donor site as a buildable parcel. The parcel is located west of and fronting on Highway 1 at Abalone Cove, north of Kasler Point in Big Sur. The project is appealable to the California Coastal Commission.
EVIDENCE: The project is described in the application and accompanying map contained in file number PC-6365.
2. FINDING: The Coastal Conservancy parcel is located entirely within the critical viewshed and is thus rendered unbuildable.
EVIDENCE: Staff made an on-site field inspection and determined that the entire parcel is visible from Highway 1 and is thus within the critical viewshed pursuant to Section 20.145.020.V of the Coastal Implementation Plan. Section 20.145.030 (Intent of Section) prohibits development within the critical viewshed; thus, the Kasler Point parcel is rendered unbuildable.
3. FINDING: The Coastal Conservancy parcel is appropriate for designation as a donor site pursuant to Coastal Implementation Plan Section 20.156, as it is: 1) a buildable parcel; and 2) a viewshed lot.
EVIDENCE: The parcel has been determined to be buildable. Adequacy of water and sewer has been verified by the Health Department. As well, a geologic report prepared by Earth Systems Consultants (August 1987) indicated that the "site can be easily developed for a single family residential structure". Finally an archaeological report by Archaeological Consulting (July, 1987) identified two archaeological sites but did not indicate that the sites would render the parcel unbuildable. Rather, further survey work and mitigations would be required in the advent of development on the parcel.

The parcel has been determined to be a viewshed lot, as detailed in the second finding (see above).

4. FINDING: The project will not have adverse impacts on visual resources.
EVIDENCE: The result of the project will be to retire the subject lot as a building site by placing the entire lot into scenic easement, pursuant to Coastal Implementation Plan Section 20.156.040.5. No development will occur on the parcel other than what may be necessary for public access. Development credits will later be transferred to a non-viewshed parcel through the Coastal Development Permit process.
5. FINDING: The project will not pose and/or experience significant adverse impacts from geologic, seismic, or fire hazards.
EVIDENCE: The site will be retired as a building site; thus, no impacts will be posed by seismic, geologic, or fire hazards. Conditions requiring deed restrictions regarding geologic and fire hazards, pursuant to Sections 20.145.080.A.2 and Section 20.145.080.C.1, are not required as the property is in public ownership.
6. FINDING: The project will not adversely impact archaeological resources.
EVIDENCE: The site is located in a "high archaeological sensitivity" zone according to County resource maps. An archaeological survey by Archaeological Consulting (July, 1987) identified two archaeological sites and recommended that the sites be surveyed prior to any proposed development. As a result of the project, the parcel will be retired as a buildable lot. No physical development will thus take place; consequently, the archaeological sites will not be impacted.

At a later date public access may be provided on the parcel subject to obtaining a Coastal Development Permit. Provision of public access has potential to impact the archaeological sites. In order to assure that there are no significant impacts, a condition of approval requires that the sites be surveyed and mitigations implemented pursuant to Archaeological Consulting's recommendation.

Coastal Implementation Plan Section 20.145.120.D.2 provides mitigations which have been incorporated into the conditions of approval. As such, rezoning to include an "HR" (Historical Resources) district is required. Also the archaeological sites are to be placed in an easement as part of the required scenic easement. A condition to record a notice regarding the archaeological report, pursuant to Section 20.140/080.L.10, is not required as the parcel is in public ownership.

7. FINDING: The project conforms to the public access requirements of the Coastal Implementation Plan.
EVIDENCE: The parcel was analyzed according to the public access requirements of the Coastal Implementation Plan. Staff determined that public access, in

the form of an easement or an offer to dedicate, is required pursuant to Section 20.145.150.D.1.a and D.1.b. Prescriptive rights appear to exist over the parcel as there are trails currently reversing the parcel and the public was observed on the property. Public access is required where prescriptive rights are identified, according to the Coastal Act and Implementation Plan. As well, public access is required for bluff top access and for access to Abalone Cove.

8. FINDING: The project is consistent with the Big Sur Coast Land Use Plan, Coastal Implementation Plan, and California Coastal Act.
EVIDENCE: The project is consistent with all applicable policies of the Big Sur Coast Land Use Plan and with development regulations of the Coastal Implementation Plan, as detailed in the above findings.
9. FINDING: The project will not have significant adverse impacts on the environment.
EVIDENCE: As a result of the project, the parcel will be retired as a building site. Consequently, the Initial Study prepared for the project did not identify any significant environmental impacts and a Negative Declaration was filed on March 31, 1988.
10. FINDING: The establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
EVIDENCE: This is evidenced by the above findings and supporting evidence.

Decision

THEREFORE, it is the decision of said Planning Commission that said application for a Coastal Development Permit be granted as shown on the attached sketch, subject to the following conditions:

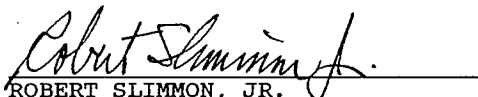
1. That the applicant record a scenic easement, as dedicated to the County of Monterey, over the entire parcel. The form and content of the easement must be approved pursuant to Section 20.142.130 and utilize Appendix 10 of the Monterey County Coastal Implementation Plan. The easement must be recorded prior to the transfer of the first development credit (TDC) to a receiver site designated through the coastal development permit process or prior to the expiration of this coastal development permit, whichever occurs first. The easement shall provide that no structures will be placed or erected nor shall the grantor plant nor permit to be planted any vegetation upon said premises, except as may be permitted through a coastal development permit for the purposes of public access occurring within an overlying public access easement.
2. That the applicant request a rezoning of the parcel to a "WSC/40/HR (CZ)" (Watershed and Scenic Conservation; Historical or Archaeological Resources) zoning district, prior to the transfer of the first development credit (TDC) to a designated receiver site or prior to the expiration this coastal development permit, whichever occurs first.

(A Big Sur Coast Land Use Plan or Coastal Implementation Plan amendment will not be required for the reclassification.)

3. That the applicant record an irrevocable offer to dedicate an easement for vertical public access. The form and content of the easement must be approved pursuant to Section 20.142.130 and utilize Appendix 6 of the Monterey County Coastal Implementation Plan. The offer to dedicate must be recorded prior to the transfer of the first development credit (TDC) to a receiver site designated through the coastal development permit process, or prior to the expiration of this coastal development permit whichever occurs first. Such easement encompassed by the offer to dedicate shall be ten feet wide and shall extend: 1) from the edge of the Caltrans right-of-way at the southern end of the existing pull-out, extending west across the property generally along the alignment of the existing foot trail, to the seaward extremity of the parcel; 2) from a point at the eastern edge of the afore-mentioned trail, extending along the eastern edge of the property, to provide access from the trail to the Abalone Cove beach area below the Caltrans overlook; and, 3) from a point at the eastern edge of the afore-mentioned trail, extending along the bluff at the southern edge of the property to provide access to scenic overlook at the seaward extremity of the parcel. (See Exhibit C for general location.) The document shall provide that, prior to opening or improvement of the trail for public access, a qualified archaeologist (i.e. member of the Society of Professional Archaeologists) shall be retained to determine: 1) the exact area extent of the on-site archaeological deposits; 2) the archaeological significance of the deposits; and; 3) necessary measures to mitigate any identified adverse impacts to the archaeological resources due to public access. The offer shall be recorded free of prior liens which the County of Monterey determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.
4. Prior to transferring the development credits, obtain a Coastal Development Permit to create a receiver site for the transfer development credits created by this permit (PC-6365).
5. That permit shall expire on May 11, 1990, unless the conditions of this permit approval have been met with this time period.

PASSED AND ADOPTED this 11th day of May, 1988, by the following vote:

- AYES: Calcagno, Evans, Glau, Jimenez, Moore, Orrett, Riddle, Stallard
- NOES: Reaves
- ABSENT: None


 ROBERT SLIMMON, JR.
 SECRETARY OF THE PLANNING COMMISSION

Copy of this decision mailed to applicant on June 3, 1988.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND 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 OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE JUNE 13, 1988.