

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> March 8, 2007 Time: 2:10 p.m.	<b>Agenda Item No.:</b> 9
<b>Project Description:</b> Consider a Coastal Development Permit to clear Code Violation CE050221, by allowing trenching and minor grading within 100 feet of riparian environmentally sensitive habitat (Big Sur River) in order to upgrade existing water and electrical hookups located at 14 RV sites. The project also includes remodeling an existing toilet/shower facility and the replacement of six RV/cabins to include septic, electrical and water hookups.	
<b>Project Location:</b> 47200 & 47205 Highway One, Big Sur	<b>APN:</b> 419-211-021-000 & 419-211-022-000
<b>Planning File Number:</b> PLN060356	<b>Name:</b> Fernwood Resort c/o King Ventures, Owners/Agent
<b>Plan Area:</b> Big Sur Coast Land Use Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> "VSC (CZ)" [Visitor Serving Commercial (Coastal Zone)]	
<b>CEQA Action:</b> Categorically Exempt per Section 15301 (b)	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Coastal Development Permit based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**)

### PROJECT OVERVIEW:

In June, 2005, Monterey County Code Enforcement cited Fernwood Resort for development in the Coastal Zone without the benefit of a Coastal Development Permit. The code violation included the addition of approximately 30 park model trailers with electric, water and sewer connections, 10 tent cabins and possible grading which created an intensification of existing campground use. At an April 10, 2006, meeting it was determined that the applicants would remove 24 of the cabins from the site after having shown proof that six of the RV/cabins were replacements and the 10 tent cabins were existing.

The property is located adjacent to the Big Sur River, which is identified as Environmentally Sensitive Habitat (ESHA). Upgrades made to existing electrical and water hookups at 14 RV sites were done within 100 feet of the Big Sur River (riparian habitat), and the applicants now seek to clear Code Violation CE050221 by applying for an after-the-fact Coastal Development Permit for development (trenching and grading) within 100 feet of ESHA. The project also includes remodeling an existing toilet/shower facility and replacing six RV/cabins to include septic, electrical and water hookups. There would be no intensification of use.

### OTHER AGENCY INVOLVEMENT:

- ✓ California Department of Forestry (CDF-Big Sur)
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by CDF-Big Sur, Environmental Health, and Water Resources Agency have been incorporated into the condition compliance reporting plan (**Exhibit D**).

The project was not referred to the Big Sur Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC. Although Section 20.145.040.c requires a Coastal Development Permit because the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River), staff made the decision not to send the project to the LUAC because the development to upgrade existing water and electrical hookups did not impact any habitat areas.

Note: The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

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February 27, 2007

cc: Zoning Administrator; California Department of Forestry (CDF-Big Sur); Public Works Department; Environmental Health Division; Water Resources Agency; California Coastal Commission, Carl Holm, Planning & Building Services Manager; Elizabeth A. Gonzales, Planner; Carol Allen; King Ventures, Applicant/Agent; Sharif Traylor, California Coastal Commission; Planning File PLN060356

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Project Overview
	Exhibit C	Recommended Findings and Evidence
	Exhibit D	Recommended Conditions of Approval
	Exhibit E	Monterey County RMA Letter dated April 11, 2006
	Exhibit F	King Ventures Letter dated October 13, 2006
	Exhibit G	Site Plan, Elevations, Floor Plans

This report was reviewed by Carl P. Holm, Planning and Building Service Manager/Senior Planner

## **EXHIBIT B PROJECT OVERVIEW**

### **Background**

In June, 2005, Monterey County Code Enforcement cited Fernwood Resort for development in the Coastal Zone without the benefit of a Coastal Development Permit. The code violation included the addition of approximately 30 park model trailers with electric, water and sewer connections, 10 tent cabins and possible grading which created an intensification of existing campground use. The property is located adjacent to the Big Sur River, which is identified as Environmentally Sensitive Habitat (ESHA).

On April 10, 2006, it was determined that the applicants would remove 24 of the cabins from the site after having shown proof that six of the RV/cabins were replacements and the 10 tent cabins were existing. The County and owner of Fernwood Resort, King Ventures also agreed that in order to come to a timely resolution of the code violation pending on the property, this project would be done in two Phases (**Exhibit E**):

*Phase I* would include a site plan showing the resort's improvements in the short-term—specifically all infrastructure emplaced which brought about the code action, i.e., trenching and minor grading to upgrade existing septic, water and electrical facilities within 100 feet of the Big Sur River. Pursuant to Section 20.145.040.c, a Coastal Development Permit is required for development within 100 feet of an Environmentally Sensitive Habitat (Big Sur River). As part of the upgrades, the County agreed to remodeling existing facilities provided King Ventures was able to show that the sites were previously permitted/existing. That proof was confirmed in a letter from King Ventures dated October 13, 2006. (**Exhibit F**)

*Phase II* would require an outline describing King Venture's long-range plans for the property (15-20 years). The Zoning Ordinance (Title 20) requires a General Development Plan for any “new development, change or expansion of use, or physical improvements.” The written portion of the plan should outline the historic, current and planned uses, including maximum occupancy of the various resort components, hours of operation, special events, and whether any portions of the site are proposed to be closed during the year. The General Development Plan should be accompanied by a biological study, a historic analysis, and a traffic study and additional studies as determined by planning staff. No additional development, expansion of use, or additional physical improvements beyond which is being approved with this permit will be allowed until the discretionary approval of the General Development Plan is obtained (**Condition 4**).

### **Site Description**

The project site, a 14 acre parcel, is located at 47200 Highway One, Big Sur, California. Fernwood Resort is a multi-use hospitality resort that includes a small motel, a restaurant, bar, general store, campground, and staff housing. The Fernwood Inn was established in the 1950's. The resort is in the Big Sur Valley and is situated along the east and west banks of the Big Sur River. The resort utilizes several standard septic systems (septic tanks and leachfields) to dispose of wastewater at the site. An updated water system permit to include an existing surface water treatment plant was obtained from the Department of Environmental Health in November, 2005, and a septic system design was cleared on July, 2006.

### **Project Description**

The property is located adjacent to the Big Sur River, which is identified as Environmentally Sensitive Habitat (ESHA). The upgrades to existing electrical and water hookups at 14 RV sites

are located within 100 feet of the Big Sur River. The applicants now seek to clear Code Violation CE050221 by applying for an after-the-fact Coastal Development Permit for development (trenching and grading) within 100 feet of riparian environmentally sensitive habitat (Big Sur River). The project also includes remodeling an existing toilet/shower facility and replacing six RV/cabins to include septic, electrical and water hookups.

### **CEQA**

CEQA Guidelines lists classes of projects which have been determined to not have a significant effect on the environment and are therefore exempt from the provisions of CEQA. Section 15301(b) (Class 1), categorically exempts existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. The property is located adjacent to the Big Sur River, which is identified as Environmentally Sensitive Habitat (ESHA). Pursuant to Section 20.145.040.c, the project requires a Coastal Development Permit because the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River). Staff determined that this project can be exempted because the development to upgrade existing water and electrical hookups did not impact environmentally sensitive habitat and there is no intensification of use.

## **EXHIBIT C**

### **RECOMMENDED FINDINGS AND EVIDENCE**

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Big Sur Land Use Plan, Monterey County Coastal Implementation Plan, Part 3 (Chapter 20.145), and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - (b) The property is located at Highway One, Big Sur (Assessor's Parcel Number 419-211-022-00 0), Big Sur Land Use Plan. The parcel is zoned Visitor Serving Commercial, Coastal Zone ("VSC (CZ)"). With the Coastal Development Permit approval, and compliance with conditions (specifically the General Development Plan-Condition #4), the project would then be consistent with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, and is therefore suitable for the proposed development.
  - (c) The project planner conducted a site inspection on February 15, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
  - (d) The project was not referred to the Big Sur Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15301(a) and (b). The repairs involved negligible or no expansion of use beyond that of existing. Although Section 20.145.040.c requires a Coastal Development Permit because the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River), staff made the decision not to send the project to the LUAC because the development to upgrade existing water and electrical hookups did not impact any habitat areas.
  - (e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060356.

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

- EVIDENCE:**
- (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, California Department of Forestry (Big Sur), Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - (b) A technical report by an outside wastewater engineering consultant indicated that there are no physical or environmental constraints that

would indicate that the wastewater systems could not be replaced. County staff concurs. The following reports have been prepared:

- "Draft Evaluation of Wastewater Systems at Fernwood Inn" (LIB060436) prepared by Fall Creek Engineering, Inc., dated October 17, 2005.

(c) Staff conducted a site inspection on February 15, 2007 to verify that the site is suitable for this use.

(d) Materials in Project File PLN060356.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review.

**EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15301 (Class 1) categorically exempts minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that of existing.

(b) CEQA Guidelines lists classes of projects which have been determined to not have a significant effect on the environment and are therefore exempt from the provisions of CEQA.

- Section 15301(b) (Class 1), categorically exempts existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. Pursuant to Section 20.145.040.c, the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River). However, a staff site visit determined that the trenching and minor grading in the campground upgraded existing facilities and did not impact any sensitive habitat, and therefore can be exempt.

(c) No adverse environmental effects were identified during staff review of the development application during a site visit on February 15, 2007.

(d) See preceding and following findings and supporting evidence.

4. **FINDING: VIOLATION** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. A violation exists on the property; however, if approved, the proposed project will remove the violation.

**EVIDENCE:** (a) A site investigation and research of the subject property found that development (trenching and grading) within 100 feet of riparian environmentally sensitive habitat (Big Sur River) was done without the benefit of a Coastal Development Permit. The code violation also included the addition of approximately 30 park model trailers with electric, water and sewer connections, 10 tent cabins and possible grading which created an intensification of existing campground use. However, at an April 10, 2006, meeting it was determined that the applicants would remove 24 of the cabins from the site after having shown proof that six of the RV/cabins were replacements and the 10 tent cabins were existing. The project planner conducted a site inspection on February 15, 2007 to verify that the 24 cabins were removed.

(b) Permit violation abatement cost, if any, will be paid as a condition of approval (Condition #5)

5. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE** (a) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 2, the Shoreline Access Map, and Figure 3, the Trails Plan in the Big Sur Land Use Plan.  
(b) Although there is prescriptive right for access to the Big Sur River, no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.  
(c) Staff site visit on February 15, 2007.

6. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

**EVIDENCE:** (a) Preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

**EVIDENCE:** (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).  
(b) The project may be appealed to the California Coastal Commission pursuant to Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 because the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway One).

**EXHIBIT D**  
**Monterey County Resource Management Agency**  
**Planning Department**  
**Condition Compliance and/or Mitigation Monitoring**  
**Reporting Plan**

Project Name FERNWOOD RESORT  
File No: PLN060356 APNs: 419-211-022-000  
Approved by: ZONING ADMINISTRATOR Date: MARCH 8, 2007

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p><b>PBD029 - SPECIFIC USES ONLY</b></p> <p>This after-the-fact Coastal Development Permit (PLN060356) allows trenching and minor grading within 100 feet of riparian environmentally sensitive habitat (Big Sur River) in order to upgrade existing water and electrical hookups located at 14 RV sites. The project also includes remodeling an existing toilet/shower facility and the replacement of six RV/cabins to include septic, electrical and water hookups. in order to clear Code Violation CE050221. The property is located at 47200 &amp; 47205 Highway 1, Big Sur (Assessor's Parcel Numbers 419-211-021-000 &amp; 419-211-022-000), Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>[Resource Management Agency (RMA) - Planning Department]</b></p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	



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2.		<p><b>PBD025 - NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: "A permit (<b>Resolution No.</b> 060356) was approved by the Zoning Administrator for Assessor's Parcel Numbers 419-211-021-000 &amp; 419-211-022-000 on March 8, 2009. The permit was granted subject to <b>11</b> conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of RMA - Planning Department prior to issuance of building permits or commencement of the use.</p> <p><b>(RMA - Planning Department)</b></p>	Proof of recordation of this notice shall be furnished to RMA - PD	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3.		<p><b>PD014(C) – LIGHTING – EXTERIOR LIGHTING PLAN (BIG SUR)</b></p> <p>All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible from critical viewshed viewing areas, as defined in Section 20.145.020.V, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. <b>(RMA – Planning Department)</b></p>	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	
			The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Ongoing	

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4.		<p><b>PDSP001 – GENERAL DEVELOPMENT PLAN (NON STANDARD)</b></p> <p>A General Development Plan for shall be submitted for Phase two of required clearance of code violation CE050221. The plan shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for the development. The plans shall include a complete written outline of a 15 to 20 year long range plan for Fernwood Resort; to include:</p> <ol style="list-style-type: none"> <li>1. Historic, current and planned uses, including physical expansion and new development;</li> <li>2. maximum occupancy of the various resort components, such as hours of operation and special events;</li> <li>3. circulation or transportation improvements with environmental considerations;</li> <li>4. any potential mitigation of adverse environmental impacts; and</li> <li>5. prove conformance to the policies of the Big Sur Land Use Plan.</li> </ol> <p>The General Development Plan shall be accompanied by a biological study, a historic analysis, and additional studies as determined by planning staff. <b>(RMA – Planning Department)</b></p>	Submit 10 copies of a General Development Plan to the RMA - Planning Department for review and processing for approval to the Zoning Administrator.	Owner/ Applicant	Prior to issuance of building permit or start of use.	
5.		<p><b>PDSP002 - VIOLATION FEE (NON-STANDARD)</b></p> <p>Prior to issuance of permits, the owner shall pay any violation fee required prior to submitting the subject application (PLN060356). <b>(RMA – Planning Department)</b></p>	Pay all fees to the Code Enforcement Division.	Applicant/ Owner	Prior to issuance of permits or start of use.	

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6.		<b>EH11 - SEPTIC SYSTEM DESIGN</b> Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB. <b>(Environmental Health)</b>	Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.	CA Licensed Engineer /Owner/ Applicant	Prior to filing the final parcel map or issuance of building	
7.		<b>WR22 - FLOODPLAIN RECORDATION</b> The owner shall provide the Water Resources Agency a recorded Floodplain Notice stating: "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." <b>(Water Resources Agency)</b>	Submit the recorded floodplain notice to the Water Resources Agency for review and approval. (A copy of the County's standard notice can be obtained at the Water Resources Agency.)	Owner/ Applicant	Prior to issuance of any grading or building permits	
8.		<b>WR45 - WELL INFORMATION</b> The applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. <b>(Water Resources Agency)</b>	Submit all applicable well information to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any grading or building permits	

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9.		<b>FIRE009 - BRIDGES</b> All new and reconstructed bridges shall be at least the width of the roadbed and berms, but in no case less than 12 feet wide. Bridge width on all roads exceeding tertiary standards shall not be less than the width of the two lanes with berms. All bridges shall be designed for HS15-44 loading and have guardrails. Appropriate signage, including but not limited to, weight ratings or vertical clearance limitations, and one-way road or single-lane road conditions, shall be provided at both entrances to any bridge. One-lane bridges may be permitted if there is unobstructed visibility across the entire bridge, and turnouts are provided at both bridge ends. The fire authority may impose more stringent requirements for bridges. <b>CDF-Big Sur</b>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
10.		<b>FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE)</b> All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. <b>CDF-Big Sur</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

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11.		<b>FIRES001 – GENERAL DEVELOPMENT PLAN (NON-STANDARD)</b> PHASE II General Development Plan is subject to fire authority review. <b>CDF-Big Sur</b>	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	

Rev. 08/06