

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 02007

A. P. # 243-121-001-000, 242-111-001-000
and 243-011-001-000

FINDINGS AND DECISION

In the matter of the application of
California Department of Parks & Recreation (PLN010348)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located within the State Reserve located west of Highway 1 and approximately 2 miles south of Carmel, Carmel Highlands, Coastal Zone, came on regularly for hearing before the Planning Commission on February 13, 2002.

WHEREAS: Said proposal includes:

- 1) Coastal Development Permit for sanitary sewer pipeline, and
- 2) Coastal Administrative Permit for a new restroom within the Point Lobos Reserve, and
- 3) Design Approval

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

FINDINGS OF FACT

1. **FINDING:** The subject Combined Development Permit and Design Approval (PLN010348) for California State Parks as described in Condition #1” and as conditioned, conforms to the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The project originates within the Point Lobos State Park Reserve and travels north along Highway 1 terminating at Ribera Road in the Carmel Highlands area. The parcel numbers include 243-121-001-000, 242-111-001-000 and 243-011-001-000 and are zoned Resource Conservation (RC) and Open Space Recreation (OR) Coastal Zone. The sites are physically suitable for the use proposed. 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 because 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: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The Carmel Area Land Use Plan;
- b) The Monterey County Coastal Implementation Plan (Part 1), Regulations for Resource Conservation “RC” and Open Space Recreation “OR” Zoning Districts, Coastal Zone; and
- c) Chapter 20.146 Monterey County Coastal Implementation Plan, Regulations for Development in the Carmel Area Land Use Plan.

EVIDENCE: The Monterey County Planning and Building Inspection Department, the Water Resources

Agency, the Public Works Department, the Environmental Health Division, the Parks Department, the Carmel Highlands Fire Protection District, Carmel Highlands/Unincorporated Land Use Advisory Committee, Caltrans and the Carmel Area Wastewater District (CAWD) have reviewed the proposed development. There has been no indication from the preceding agencies that the site is not suitable for the proposed development and each agency has recommended conditions for improvements where appropriate. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development.

EVIDENCE: Design Approval with a recommendation for approval by the Carmel Highlands/Unincorporated Land Use Advisory Committee on November 5, 2001 by a vote of 7-0.

EVIDENCE: The project is consistent with the Scenic and Visual Resources Development Standards of the Monterey County Coastal Implementation Plan, Part 4. Pursuant to Section 20.146.030, the project planner conducted a site visit in December 2001. The proposed project would not have a significant visual impact and the pipeline is located underground.

EVIDENCE: The Archaeological Report prepared for the project dated August 2001, concludes that the project will not impact cultural resources in the area.

EVIDENCE: The Biotic Report prepared for the project dated September, 2001, concludes that the project will not impact biological resources in the area.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Plan and project conditions.

2. **FINDING:** The project is consistent with the policies of the Carmel Area Land Use Plan relative to wastewater treatment.

EVIDENCE: Policy 3.3.3.3: This policy states that installation of sewage treatment facilities to serve development south of the Carmel River shall be considered only to eliminate a public health hazard and sized to serve only the projected build-out of this area. Wastewater at the State Reserve is currently collected in vaults which are pumped out periodically. The waste materials are transported by truck to an off-site wastewater treatment facility. Leach fields have been evaluated as an alternative, but a previous soils report concluded that the soils are not appropriate for leach field construction. The installation of the pipeline will facilitate the transport of wastewater collected from seven collection points west of Highway 1 from the park to Ribera Road where existing infrastructure connects to the Carmel Area Wastewater District (CAWD) treatment facility.

EVIDENCE: Policy 3.3.3.6: This policy states that any permit request to extend main wastewater collection pipelines in the segment, shall require that (1) any accompanying service district formation and/or expansion within the segment be within the urban boundary or rural enclaves; and (2) the permittee agrees not to assess for or guarantee sewer service in areas outside the sewer district within the segment. Point Lobos is located approximately four miles south of the CAWD treatment facility. The project is prohibited to expand wastewater capacity. See Condition 15.

3. **FINDING:** The Planning Commission finds that adoption of the Mitigated Negative Declaration and Initial Study is appropriate for this project. The final Initial Study prepared by the Carmel Area Wastewater District as the Lead Agency has been reviewed by the County Planning and Building Inspection Department as a Responsible Agency. The County supports the Initial Study and has found that the proposed project, including all permits and approvals, will not

have significant adverse impacts on the environment. A Mitigated Negative Declaration and a Mitigation Monitoring Plan have been prepared pursuant to Public Resources Code Section 21081.6 and are approved. All mitigation measures identified in the Initial Study and all project changes required to avoid significant affects on the environment have been incorporated into the approved Mitigation Monitoring Plan and as conditions of project approval. Potential environmental effects have been studied and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may cause a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and in consideration of testimony and information received, and scientific and factual data presented as evidence during the public review process. Following review of the Initial Study by the County Planning and Building Inspection Department, the County supports the adoption of the Mitigated Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Notice of Determination is based is the Monterey County Planning and Building Inspection Department, Coastal Office, located at 2620 First Avenue, Marina. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: The Carmel Area Wastewater District as the Lead Agency, prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), Guidelines and prepared a Mitigation Monitoring Plan pursuant to Section 21081.6 of the Public Resources Code. The Initial Study and the Mitigation Monitoring Plan provide substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on September 11, 2001. All comments on the Initial Study have been received and considered as well as evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

Denise Duffy & Associates, Staff Biologist Biotic Report, September, 2001;
Archaeological Consultants, Preliminary Archaeological Reconnaissance Report: August 2001

EVIDENCE: Conditions of Approval 2-16, Mitigated Negative Declaration, Mitigation Monitoring Plan, in file PLN010348.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

4. **FINDING:** For purposes of the Fish and Game Code, the project may have a potential to impact fish and wildlife resources.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may cause changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations.

EVIDENCE: The project's construction activities including the use of equipment may potentially cause changes to the immediate environment.

EVIDENCE: The applicant shall pay the Environmental Document Fee, pursuant to Fish and Game Code Section 753.5.

EVIDENCE: Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Plan and Condition 8.

5. **FINDING:** The establishment, maintenance, or operation of the use or structure 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 of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

EVIDENCE: Administrative record, file and application materials, Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring Plan contained in the project file.

6. **FINDING:** The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Section 20.17.50 of the Monterey County Coastal Implementation Plan (Part 1) and staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

7. **FINDING:** The project, as approved by the Planning Commission, is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Sections 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

THEREFORE, it is the decision of the Planning Commission of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The Combined Development Permit and Design Approval consists of: a Coastal Development Permit for sanitary sewer pipeline; and a Coastal Administrative Permit for a new restroom facility within the Point Lobos Reserve. The sewer pipeline would connect various points within the Reserve to the Hudson House and Monastery Beach and would be located along Highway 1 (North) within the Caltrans right-of-way. The proposed pipeline would terminate at Ribera Road where existing infrastructure connects to the Carmel Area Wastewater District sewage treatment facility. CAWD will process the waste materials. The project involves three parcels south of the City of Carmel including (Assessor's Parcel Numbers 243-121-001-000, 242-111-001-000 and 243-011-001-000) in the Carmel Highlands. The proposed project is consistent 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 Planning and Building Inspection. 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. (Planning and Building Inspection)

Prior to the issuance of Building and Grading Permits:

2. The applicant shall record a notice which states: "A permit (Resolution #010348) was approved by the Monterey County Planning Commission for Assessors Parcel Numbers 243-121-001-000, 243-111-001-000 and 243-011-001-000 on February 13, 2002. The permit was granted subject to 16 conditions of approval that run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building or grading permits. **(Planning and Building Inspection)**
3. Prior to issuance of building permits, the applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted for this project. **(Planning and Building Inspection)**
4. A qualified archeological monitor shall be present during trenching through the area immediately adjacent to the recorded site CA-MNT-695. If human remains or intact cultural features are discovered, work shall be halted immediately in that area until the find can be evaluated and appropriate mitigation or data recovery measures are formulated and implemented. **(Planning and Building Inspection & M.M. 1)**
5. A qualified arborist shall be on site during trenching activities near and around protected trees. In the unlikely event that any tree roots are damaged, the arborist will take remedial actions to ensure that the affected tree(s) will survive. **(Planning and Building Inspection & M.M. 2)**
6. Protective fencing shall be placed around protected trees and other vegetation near the areas of construction. **(Planning and Building Inspection)**
7. An erosion control plan shall be implemented when heavy and prolonged rains occur during the raining season. The plan shall be prepared and submitted to the Director of Planning and Building Inspection for review and approval. **(Planning and Building Inspection & M.M. 3)**
8. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection & M.M. 4)**

Prior to Final Building Inspection:

9. Replant all disturbed soil with locally occurring native grass mix and shrub species for erosion control immediately after completion of construction. A plan identifying the type of replacement vegetation and method of their maintenance shall be reviewed and approved by the Director of Planning and Building Inspection. The plan may be submitted at anytime prior to final inspection. **(Planning and Building Inspection & M.M. 5)**
10. The sanitary system shall be flood proofed in accordance with County Ordinance #3272 and certified by a registered civil engineer. **(Water Resources Agency)**
11. All abandoned septic systems shall be destroyed under permit of the Division of Environmental Health immediately upon commencement of services from the Carmel Area Waste Water District. **(Environmental Health)**

Continuous permit conditions:

12. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
13. Construction activity shall not hinder traffic flow along Highway 1. Construction along Highway 1 shall occur between 8am and 4pm. Any construction is prohibited on weekends and holidays. **(Planning and Building Inspection)**
14. No work shall occur below the top of the bank on either side of San Jose Creek. No materials of any kind shall enter into the creek waters. **(Planning and Building Inspection)**
15. The pipeline shall not be used to connect new development or any improvements that require additional sewage capacity, such as parts of the park system east of Highway 1. Any future modifications to the project shall require a coastal development permit subject to County policies and environmental review. **(Planning and Building Inspection)**
16. Backfill any open trenches at the end of each day of construction. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 13th day of February, 2002 by the following vote:

AYES: Errea, Hawkins, Parsons, Brennan, Pitt-Derdivanis, Diehl, Hernandez, Lacy, Wilmot
NOES: None
ABSENT: Sanchez

Original Signed By:

DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

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

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 OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH

THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

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

NOTES

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

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

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.

Monterey County Planning & Building
Inspection
Program for Monitoring or Reporting* on
Conditions of Approval

Project Name: Point Lobos State Rese

File No: PLN010348 **APN: 243-121-(**
001-000 and 243-011-001-00

Approval by: Planning Commission **Date: Fe**

LEGEND

PBI Planning & Building Inspection	WRA Water Resources Agency	EH Environmental Health	AG Ag Commissioner
FD Fire District	PW Public Works	RA Redevelopment Agency	PD Parks Department
CC County Counsel	MMR Mitigation Monitoring Reporting Team	CE Code Enforcement	Other State which agency

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

Mit. Mon. No.	Final Signoff Date	Mitigation Measures	Standard	Orig. Dept. or Agency	Schedule (Priority to/Continue (Report due Fill in time)
1 (Cond. 4)		A qualified archeological monitor shall be present during trenching through the area immediately adjacent to the recorded site CA-MNT-695. If human remains or intact cultural features are discovered, work shall be halted immediately in that area until the find can be evaluated and appropriate mitigation or data recovery measures are formulated and implemented.	Specific project mitigation	PBI	During construction
2 (Cond. 5)		A qualified arborist shall be on site during trenching activities near and around protected trees. In the unlikely event that any tree roots are damaged, the arborist will take remedial actions to ensure that the affected tree will survive.	Specific project mitigation	PBI	During and following construction
3 (Cond. 7)		An erosion control plan shall be implemented during heavy and prolonged rains during the raining season. The plan shall be prepared and approved by the Director of Planning and Building Inspection.	Specific project mitigation	PBI	Prior to Issuance of Building/Grading Permits
4 (Cond. 8)		Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid.		PBI	Prior to Issuance of Building/Grading Permits

Mit. Mon. No.	Final Signo ff Date	Mitigation Measures	Standard	Orig. Dept. or Agenc y	Schedul (Prior to/Contin (Report d Fill in tim
5 (Cond. 9)		Replant all disturbed soil with locally occurring native grass mix and shrub species for erosion control immediately after completion of construction. A plan identifying the type of replacement vegetation and method of their maintenance shall be reviewed and approved by the Director of Planning and Building Inspection. The plan may be submitted at anytime prior to final inspection.	Specific project mitigation	PBI	Prior to Final Inspection