

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

RESOLUTION NO. 02039

A. P. # 417-021-035-000-M

**FINDINGS AND DECISION**

In the matter of the application of  
**Karl and Lisa Kleissner (PLN010280)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located in Garrapata Canyon (approximately Post Mile 63 of Highway 1) Big Sur area; a single access road enters east from Highway 1 at Garrapata Beach extending approximately ½ mile to a fork intersection creating an upper and lower road, the upper road extends eastward approximately 2 miles, north of, and approximately ¼ mile above and parallel to Joshua Creek on the hillside; the lower road extends eastward approximately ¾ of a mile north of and parallel to Joshua Creek and ultimately runs adjacent to the creek; at the ¾ mile mark, a spur road extends north up the hillside between the upper and lower road to an abandoned house pad, came on regularly for hearing before the Planning Commission on July 10, 2002.

WHEREAS: Said proposal includes:

- 1) Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat, and
- 2) Coastal Development Permit for development on slopes greater than 30%, and
- 3) Coastal Development Permit for placement of graded material, retaining structures, culverts, energy dissipaters, creek crossings, etc., and underground utility lines

These permits apply as appropriate to the following improvements to include: a) after the fact improvements to existing access road (approximately 2.5 miles in length) consisting of an undetermined amount of grading, removal of debris flow material, road widening and embankments, multiple culverts and energy dissipators, retaining walls (one concrete wall, a geotextile reinforced soil wall, a wood wall and several Hilfiker walls), a gabion basket drainage crossing; underground utility lines and related work adjacent to Joshua Creek; b) new improvements to the upper access road consisting of short-term erosion control measures, a Soldier Beam retaining wall, five (5) 12" culverts, four (4) Hilfiker retaining walls, and concrete paving of two steep areas, and related grading.

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

**FINDINGS OF FACT**

1. **FINDING:** The project proposed in this application consists of a Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat, a Coastal Development Permit for development on slopes greater than 30%, and a Coastal Development Permit for placement of graded material, retaining structures, culverts, energy dissipaters, creek crossings, etc., and underground utility lines (PLN010280), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Big Sur Coast Land Use Plan, Monterey County Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20), which together comprise the Local Coastal Program for the project site. The properties are located at Garrapata Canyon in the Big Sur area, Coastal Zone. (Assessor's Parcel Numbers 417-021-035-000 and 417-021-038-000). The site is located East of Highway 1 between Joshua Creek and the southern portion of the Doud Creek drainage. The parcels are zoned WSC/40-D (CZ) or Watershed and Scenic Conservation Residential, Coastal Zone, 40 acres

per unit Design Control District. The subject properties are in compliance with all rules and regulations pertaining to zoning uses, and any other applicable provisions of Title 20, and any zoning violation abatement costs have been paid.

**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The certified Big Sur Coast Land Use Plan
- b) The certified Monterey County Coastal Implementation Plan regulations for the "WSC (CZ)" Districts in the Coastal Zone, and
- c) Chapter 20.145, Monterey County Coastal Implementation Plan regulations for development in the Big Sur Coast Land Use Plan.

**EVIDENCE:** The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and California Department of Forestry and Fire Protection (Carmel). There has been no indication from these agencies that the site is not suitable for the proposed development. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Where applicable, each agency has recommended conditions of approval.

**EVIDENCE:** The project planner conducted site visits in November, 2001 and April, 2002 to verify that the proposed project complies with the Monterey County Coastal Implementation Plan (Part 3).

**EVIDENCE:** Results from a preliminary archaeological reconnaissance prepared by Archaeological Consulting, dated August 17, 2001 indicated that there is no evidence of potentially significant prehistoric or historic cultural resources. The report further concluded that the work completed on the road has not resulted in impacts to significant archaeological resources.

**EVIDENCE:** A biological report prepared by Jeff Norman, Consulting Biologist, dated November 3, 2001.

**EVIDENCE:** Geological and Geotechnical Review and Reconnaissance report prepared by Geoconsultants, Inc., dated November, 2001.

**EVIDENCE:** Hydrology and Drainage report prepared by Ifland Engineers, Inc., dated October, 2001.

**EVIDENCE:** Watershed Management Plan prepared by Ifland Engineers, Inc., dated October, 2001.

**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.

1. **FINDING:** The project is in conformance with public access requirements of the Coastal Act and the Big Sur Coast Land Use Plan Section 20.145.150. 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.

**EVIDENCE:** The property is located east of Highway 1 and is not identified in the Big Sur Coast Land Use Plan Shoreline Access Plan as a Public Access location. The property does not front the shoreline and is not located in an area where public access exists and does not constitute an accessway over which the public may have prescriptive rights.

2. **FINDING:** The project is consistent with Section 20.145.030 of the Coastal Implementation Plan dealing with Visual Resources.

**EVIDENCE:** The project planner conducted site visits in October, 2001 and January, 2002 to verify the proposed consistency with development standards in the critical viewshed as set forth in the Coastal Implementation Plan (Part 3). Section 20.145.030.A.2.e prohibits development of new roads, including improvements on existing roads, when the development damages or intrudes upon the critical viewshed. The project does not include the construction of new structures. Development occurred that could have impacted the critical viewshed, such as parking and storage areas. Staff site visits to the project site verified that these areas are not visible from

Highway 1. Condition of approval 15 has been added to the project requiring restoration of these areas.

**EVIDENCE:** File and application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in the project file.

3. **FINDING:** The proposed project conforms to the Development Standards for Environmentally Sensitive Habitats of the Coastal Implementation Plan.

**EVIDENCE:** The biological report and initial study prepared for the project identified potential adverse impacts to species of special concern and environmentally sensitive habitats. Potential adverse impacts were identified for the endangered Smith's Blue Butterfly (*Euphilotes enoptes smithi*) and its host plant seacliff buckwheat (*Eriogonum parvifolium*), the federal threatened California Red Legged Frog and associated Environmentally Sensitive Habitat Areas (ESHA). Appropriate mitigation measures were imposed on the project and included as conditions of approval 15–21 to bring the potential adverse impacts to a less than significant level.

**EVIDENCE:** File and application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in the project file.

4. **FINDING:** The proposed project conforms to LUP policy 3.3.2.1 and CIP section 20.145.040.B.1 dealing with development in environmentally sensitive habitat areas.

**EVIDENCE:** LUP policy 3.3.2.1 and CIP section 20.145.040.B.1 prohibit development in environmentally sensitive habitat areas if the development's impact cannot be reduced to a level at which the long-term maintenance of the habitat is assured. The Initial Study for the project identified adequate mitigation measures that would reduce adverse impacts from the project to a less than significant level and ensure the long-term maintenance of the habitat. These mitigation measures have been required as conditions of approval 15–21. Consequently, impacts from the project will not affect the long-term maintenance of the habitat, consistent with the aforementioned policies.

**EVIDENCE:** File and application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in the project file.

5. **FINDING:** The proposed project conforms to LUP policy 3.3.2.3 and CIP section 20.145.040.B.2 related to conservation easements in environmentally sensitive habitat areas.

**EVIDENCE:** LUP policy 3.3.2.3 and CIP section 20.145.040.B.2 require conservation easement dedications over environmentally sensitive habitat areas for any development on parcels that contain these areas. Policy 3.3.2.3 encourages property owners to voluntarily dedicate conservation easements where development has already occurred. The applicant has voluntarily signed a deed of conservation and scenic easement with the Santa Lucia Conservancy over the majority of the parcel including all portions that contain environmentally sensitive habitat areas. Condition of approval #4 requires proof of recordation of said easement and includes alternative language to comply with this requirement if the voluntary easement deed does not occur. Therefore, the project is consistent with LCP policies that require conservation easements over environmentally sensitive habitat areas.

6. **FINDING:** The project is consistent with Section 20.145.050 of the Coastal Implementation Plan dealing with Water Resources.

**EVIDENCE:** The proposed improvements were reviewed by the Monterey County Water Resources Agency and the Monterey County Health Department, Environmental Health Division. Where appropriate, these agencies have recommended conditions of approval to bring the project in compliance with County ordinances that protect water resources.

**EVIDENCE:** Initial Study and Negative Declaration contained in the project file.

**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.

**7. FINDING:** The project is consistent with LUP policy 3.4.2.2 related to use of best watershed management practices.

**EVIDENCE:** Best management practices for the project include implementation of erosion control measures, energy dissipaters at the outfalls of culverts and slope revegetation in conjunction with a monitoring plan to evaluate the performance of these measures as required by the conditions of approval.

**EVIDENCE:** Mitigation measures applied to the project to ensure the long-term maintenance of watershed resources – see Finding #7, conditions 15-21. Application, plans, and support materials, submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development.

**8. FINDING:** The project is consistent with LUP policy 3.4.2.3 regarding the use of riparian water supply.

**EVIDENCE:** Three water tanks exist on the property. Water for the tanks comes from intakes located in Joshua Creek and a spring above the tanks. Current use of the water is limited to road maintenance activities. Consistent with LUP policy 3.4.2.3, a condition of approval (condition #19) has been added to the project requiring the removal of the water tanks and supply system, in consultation with the Department of Fish and Game upon completion of road work. In the interim, the applicant must install float shut-off valves in the tanks to avoid potential dewatering of the Creek and spring.

**9. FINDING:** The proposed project, including all permits and approvals, will not have any significant adverse impacts on the environment and a Mitigated Negative Declaration has been adopted. 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 and mitigated, 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 in evidence during the public review process. Mitigation measures identified in the Initial Study have been incorporated into the project, and agreed to by the applicant, to reduce any impact to an insignificant level. All applicable mitigation measures are included in the conditions of approval, which are hereby adopted as a mitigation monitoring and reporting program.

Studies, data, and reports prepared by staff from various County departments, including Planning and Building Inspection, Public Works, Environmental Health, and the Water Resources Agency, support the adoption of a Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department, 2620 1<sup>st</sup> Avenue, Marina. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinions 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:** County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), and its Guidelines. The Initial Study provided substantial evidence that the project, with the addition of mitigation measures, would not have significant

adverse environmental impacts. A Negative Declaration was filed with the County Clerk on June 04, 2002 and noticed for public review. All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed 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:

- 1) Preliminary archaeological reconnaissance prepared by Archaeological Consulting, dated August 17, 2001.
- 2) Biological report prepared by Jeff Norman, Consulting Biologist, dated November 3, 2001.
- 3) Geological and Geotechnical Review and Reconnaissance report prepared by Geoconsultants, Inc., dated November, 2001.
- 4) Hydrology and Drainage report prepared by Ifland Engineers, Inc., dated October, 2001.
- 5) Watershed Management Plan prepared by Ifland Engineers, Inc., dated October, 2001.

**EVIDENCE:** File and application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in the project file.

1. **FINDING:** For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

**EVIDENCE:** Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. Implementation of the project will potentially affect the plant Seacliff Buckwheat (*Eriogonum parvifolium*), host plant for the endangered species Smith's Blue Butterfly (*Euphilotes enoptes smithi*), and the threatened California Red Legged Frog (*Rana aurora draytonii*) in addition to other ESHAs present on the project site.

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

**EVIDENCE:** Initial Study and Negative Declaration contained in the project file.

2. **FINDING:** The establishment, maintenance, or operation of the development applied for will not, under the circumstances of the 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 improvement in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, applicable Fire Department, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general. The Carmel CDF reviewed the proposed project and determined that the project is in compliance with fire safety regulations as noted in the project plans.

3. **FINDING:** The project is appealable to the Board of Supervisors and California Coastal Commission.

**EVIDENCE:** Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1) and Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

### 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 subject Combined Development Permit includes Assessor's Parcel Numbers 417-021-035-000, and 417-021-038-000 and consists of: a Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat, a Coastal Development Permit for development on slopes greater than 30%, and a Coastal Development Permit for placement of graded material, retaining structures, culverts, energy dissipaters, creek crossings, etc., and underground utility lines. These permits apply as appropriate to the following improvements to include: a) after the fact improvements to lower and upper access roads (approximately 2.5 miles in length) consisting of an undetermined amount of grading, removal of vegetation for a parking area, removal of vegetation and grading of an area for equipment and container storage, removal of debris flow material, road widening and embankments, installation of multiple storm drains and fifty four (54) culverts ranging from 12 to 48 inches in diameter, installation of fifteen (15) culvert extensions on the hillside below the roads with energy dissipaters, twenty-seven (27) retaining walls (one concrete wall, a geotextile reinforced soil wall, a wood wall and 24 Hilfiker walls), a gabion basket drainage crossing; seven (7) hydrants; underground communication lines (pull boxes) and related work adjacent to Joshua Creek. ; b) new improvements to the upper access road consisting of short-term erosion control measures, a Soldier Beam retaining wall (already installed under an emergency permit), five (5) culverts ranging from 12 to 24 inches in diameter (one 24" culvert already installed under an emergency permit), four (4) Hilfiker retaining walls, where the upper road crosses Joshua Creek construction of a flat car bridge, a Hilfiker wall, a retaining wall and concrete paving of the steep areas before and after the bridge, and related grading (approximately 125 cubic yards of cut, 40 cubic yards of fill). The project is located at Garrapata Canyon (approx. Post Mile 63 of Highway 1) Big Sur area. The project is 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 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 issuance of Building and/or Grading Permits:**

2. 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 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)**
3. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan. The Plan shall be submitted to the Director of Planning and Building Inspection Department for approval prior to issuance of building and/or building permits. **(Planning and Building Inspection)**

4. Proof of recordation of a voluntary conservation and scenic easement that meets the requirements of the Big Sur Coast Land Use Plan for development in environmentally sensitive habitat areas shall be provided to the Director of Planning and Building Inspection Department. Alternatively, a conservation easement shall be conveyed to the County over those portions of the property where sensitive habitat areas have been identified as shown on the plans included in the November 3, 2001 biological report by Jeff Norman, consulting biologist. Conservation easement deed to be submitted to and approved by Director of Planning and Building Inspection prior to final inspection **(Planning and Building Inspection)**
5. The applicant shall record a notice which states: "The following reports have been prepared for the upper and lower access road for this property: Preliminary archaeological reconnaissance prepared by Archaeological Consulting, dated August 17, 2001; Biological report prepared by Jeff Norman, Consulting Biologist, dated November 3, 2001; Geological and Geotechnical Review and Reconnaissance report prepared by Geoconsultants, Inc., dated November, 2001; Hydrology and Drainage report prepared by Ifland Engineers, Inc., dated October, 2001; Watershed Management Plan prepared by Ifland Engineers, Inc., dated October, 2001. These reports are on file in the Monterey County Planning and Building Inspection Department. The recommendations contained in said reports shall be followed in all further development of the access roads to this property." **(Planning and Building Inspection)**
6. The applicant shall record a notice that states: "A permit (Resolution 02039) was approved by the Planning Commission for Assessor's Parcel Numbers on July 10<sup>th</sup>, 2002). The permit was granted subject to 21 conditions of approval, which 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 permits, or commencement of the use. **(Planning and Building Inspection)**
7. Prior to issuance of any grading or building permits for the road, a road drainage and improvement plan shall be prepared by a registered civil engineer. **(Water Resources Agency)**
8. Prior to issuance of any grading and/or building permits for the bridge, a registered civil engineer shall prepare a plan for the construction of the approaches and abutments to show that they are protected from erosion by flows exceeding the capacity of the normal channel (overbank flow). The approach and abutment fill material shall be properly compacted, and protected with armor, if necessary, to resist flow erosion. Plans shall identify subsurface material under the abutments and the approaches, and how any fill material will be keyed into the subsurface. The bridge shall be designed and properly anchored to withstand overtopping and debris loads. Plans shall be approved before the issuance of any grading/building permits. **(Water Resources Agency)**
9. All structures accessed from this road shall have permanently posted addresses. **(Fire District)**
10. Ordinance 3600 requirements for fire department access roads apply, with the following exceptions:
  - a. The upper road is acceptable as is from the Highway One access gate to the fish and Game turnoff. Turnouts to be provided as determined by the site visit on February 5, 2002.
  - b. The upper road past the Fish and Game turnoff to be finished to match the completed portion of the upper road. If the road surface deteriorates due to weather after 24 months, a retroactive requirement for pavement shall be required. **(Fire District)**
11. All residences served by this access road shall be equipped with automatic fire sprinkler systems meeting the requirements of NFPA 13-D, including retrofit of all existing residences. **(Fire District)**

12. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
13. The use of native species consistent with and found in the project area shall be required in all restoration plans. **(Planning and Building Inspection)**
14. In order to control erosion on the exposed surface of the road that leads from the sawmill to the burnt house site, prior to final inspection the applicant shall re-vegetate this portion of road as well as the house pad. Re-vegetation shall be maintained until any future discretionary permits dictate otherwise. Additional erosion control measures to complement re-vegetation may be used. Ongoing implementation of this condition shall not have any effect on whatever legal status the access road and house pad may have as of the date of project approval. **(Planning and Building Inspection)**

### **Conditions from the Mitigated Negative Declaration**

15. **Mitigation Measure 1 (Biological Resources)** In order to mitigate for impacts that occurred to Central Maritime Chaparral to a less than significant level, the applicant shall, in consultation with a qualified biologist, restore the areas at trench swales and utility boxes located between points 0 and 6, and at the parking area identified as point 3 shown on the “As-Built Drawing for access Road for Parcel APN: 417-021-035” (Exhibit “A”, Project Plans). Restoration shall include planting of 47 Little Sur manzanita plants and as many mock heather and Monterey manzanita plants as recommended by the biologist, in addition to eradication of exotic invasive species such as Kikuyu grass and Bermuda buttercup. Plants for the restoration shall be obtained from cuttings of other plants from the site as indicated in the November 3, 2001 biology report by Jeff Norman. **MONITORING ACTIONS: Prior to final inspection**, the applicant shall submit a report prepared by the qualified biologist to the Director of Planning and Building Inspection Department, certifying that all planting has been made consistent with the recommendations of the qualified biologist and in accordance with the guidelines in the November 3, 2001 biology report by Jeff Norman. **Every four months, for a period of five years**, the applicant shall report in writing to the Director of Planning and Building Inspection Department on the status of the restoration. The reports shall be prepared by a qualified biologist and shall include performance measures and corrective measures as needed. Planting shall be sufficient to replace lost vegetation (1:1 ratio) with a 100% success criterion. Failure to meet the success standard in any given year shall require immediate replacement planting and shall extend the monitoring period for an additional year.
16. **Mitigation Measure 2 (Biological Resources)** In order to minimize potential adverse impacts to Redwood trees, all activities along the lower road shall avoid severing major roots of redwoods. No excavated or otherwise disturbed soil shall be allowed to accumulate beneath the canopies of these trees. **MONITORING ACTION:** The applicant shall include a section in the report required under Mitigation Measure 1 addressing the condition of this mitigation measure.
17. **Mitigation Measure 3 (Biological Resources)** In order to mitigate for loss of riparian vegetation associated with the construction of the gabion wall, placement of riprap, and installation of French drains, the applicant shall, in consultation with a qualified biologist, replant the affected area in accordance with the recommendations contained in the biology report by Jeff Norman dated November 3, 2001. Planting shall be sufficient to replace lost vegetation (1:1 ratio) with a 100% success criterion. Failure to meet the success standard in any given year shall require immediate replacement planting and shall extend the monitoring period for an additional year. **MONITORING ACTION:** The applicant shall include the progress of this mitigation measure in the report to be submitted every four months per Mitigation Measure 1.
18. **Mitigation Measure 4 (Biological Resources, Geology and soils, Hydrology and Water Resources)** In order to prevent erosive material from the road entering Joshua Creek, the applicant shall, in consultation with



the National Marine Fisheries Service and the Garrapata Creek Watershed Council, complete road improvements following the recommendations of the Watershed Management Plan, the Hydrology and Drainage Report, and related plans prepared by Ifland Engineers (See Exhibits D and E of the Initial Study). These recommendations include keeping the existing gabion basket wall on Joshua Creek, additional culverts (5), retaining walls and erosion control measures such as Best Management Practices (BMPs) and outlet protection measures. In addition, the applicant shall implement and follow all recommendations by consulting biologist Jeff Norman in his November 3, 2001 Biological Report.

**MONITORING ACTIONS: Prior to the issuance of building or grading permits**, the applicant shall submit a culvert evaluation plan prepared by a qualified civil engineer or hydrologist to the Director of Planning and Building Inspection Department for approval. The plan shall be reviewed by the California Regional Water Quality Control Board, National Marine Fisheries Service, and Garrapata Creek Watershed Council and must include performance standards and variables to be monitored in addition to sediment capturing devices such as water course screens. **Beginning on May 1, 2003 and until the end of the revegetation reporting period indicated in Mitigation Measure 1**, the applicant shall submit yearly reports prepared by a qualified civil engineer or hydrologist to be approved by the Director of Planning and Building Inspection Department to evaluate the performance of the road improvements as they relate to the watershed. The reports shall also be submitted to the California Regional Water Quality Control Board, California Department of Fish and Game, National Marine Fisheries Service, and Garrapata Creek Watershed Council for comment. Each report shall include a pre-winter assessment of the site and a post winter evaluation of the installed components. The reports shall specifically address culvert adequacy and energy dissipater performance. Evidence of significant hillside erosion at culvert outlets and energy dissipaters shall require corrective measures as recommended by the civil engineer. These measures shall be implemented on a schedule submitted by the civil engineer. Failure to implement subsequent recommended measures shall constitute a violation of project conditions. Concurrently, the biologist shall review sediment loading and sediment impacts on steelhead habitat with related measures to be implemented as necessary consistent with the requirements for subsequent measures outlined above.

19. **Mitigation Measure 5 (Biological Resources, Hydrology and Water Resources)** In order to minimize impacts to Joshua Creek from surface water diversion, upon completion of the road improvements, in consultation with the Department of fish and Game, the applicant shall remove the water tanks located on the lower road near the sawmill. Until removed, the applicant shall install float shut-off valves in the water tanks to prevent unnecessary bypassing of water between the intakes and the tanks.

**MONITORING ACTION: Prior to construction**, the applicant shall provide evidence to the Director of Planning and Building Inspection Department that float shut-off valves have been installed in the water tanks. **Prior to final inspection**, the applicant shall provide the Director of Planning and Building Inspection Department, proof that consultation with the Department of Fish and Game has occurred regarding tank removal and that the water tanks have been removed from the site.

20. **Mitigation Measure 6 (Biological Resources)** In order to mitigate for potential adverse impacts to the Federally-listed Smith's blue butterfly and its host plant seacliff buckwheat from road opening activities, the applicant shall, in consultation with a qualified biologist and per the recommendations of the November 3, 2001 report by consulting biologist Jeff Norman, plant a total of 1,126 seacliff buckwheat plants. Planting shall be limited to Coastal Sage Scrub habitat where impact has occurred and where necessary to stabilize erosive conditions. All planted areas shall be monitored for exotic invasive plants as described in the biological report; when encountered, exotic plants shall be eradicated.

**MONITORING ACTION:** Progress of revegetation and exotic invasive plant control shall be included in a report prepared by a qualified biologist and will be subject to a 70% success criterion, or 788 seacliff buckwheat plant specimens at the end of the five-year monitoring period. Failure to meet the success criterion for seacliff buckwheat in any given year shall require immediate replanting of lost plants and will extend the monitoring period for an additional year. Reporting and monitoring required under this action may be combined with the report required under mitigation measure 1.

21. **Mitigation Measure 7 (Biological Resources)** In order to avoid adverse impacts to sensitive plants such as seacliff buckwheat, the applicant shall retain a qualified biologist to identify and mark all sensitive plants to be avoided during construction. If avoidance is not possible, replacement planting shall be implemented per mitigation measure 5 and its monitoring action.

**MONITORING ACTION: Prior to construction**, the applicant shall provide the Director of Planning and Building Inspection Department for approval, a copy of the contract with a qualified biologist to carry out this mitigation measure. **Prior to final inspection**, the applicant shall submit to the Director of Planning and Building Inspection Department written certification by the qualified biologist that construction activities were carried out in accordance with this mitigation measure and that any required replacement planting has been done or that no additional mitigation measures are required.

PASSED AND ADOPTED this 10th day of July, 2002 by the following vote:

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

Original Signed By:

\_\_\_\_\_  
DALE ELLIS, SECRETARY

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 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 90<sup>th</sup> 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.