

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

RESOLUTION NO. 02067

A.P. # 129-112-005-000

In the matter of the application of
Donald & Shirley Hambey (PLN010119)

FINDINGS AND DECISION

for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow development of new or expanded agricultural operations on parcels where 50% or more of the parcel has a slope of 10%, including grading of approximately 1350 cubic yards of cut and 380 cubic yards of fill, located on the west side of San Miguel Canyon Road and north of Strawberry Canyon Road, Prunedale, came on regularly for hearing before the Planning Commission on November 13, 2002.

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

FINDINGS OF FACT

1. **FINDING:** The subject Coastal Development Permit as described in condition #1 and as conditioned conforms to the plans, policies, requirements and standards of the General Plan, North County Land Use Plan, and the Monterey County Zoning Ordinance (Title 20). The property is located on the west side of San Miguel Canyon Road, north of Strawberry Canyon Road, Prunedale. The parcel is located in a rural density residential land use area and the zoning designation is RDR-20 (rural density, with a maximum gross density of ten acres per unit). The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20.
EVIDENCE: The Planning and Building staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
 - a) The North County Land Use Plan
 - b) Chapters 20.16, 20.58 and 20.64 of the Monterey County Zoning Ordinance.**EVIDENCE:** The project is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, North County Fire Department, Parks Department, and Agricultural Commissioner, and the North County (Coastal) Land Use Advisory Committee. There has been no indication from these agencies that the site is unsuitable for the proposed development. Each agency has recommended conditions for project approval.
EVIDENCE: The proposed use is consistent with the development standards within Chapters 20.16 and 20.58 (Title 20), of the Monterey County Zoning Ordinance regarding regulations for Rural Density Residential Zoning Districts and Parking.
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: The on-site inspection by the project planner to verify that the proposed project complies with the Zoning District, the General Plan, and the North County Land Use Plan.

2. FINDING: The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File # PLN010119) in the Department of Planning and Building Inspection. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Program for Monitoring and/or Reporting on Conditions of Approval (hereafter “the Program”) has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is attached hereto as Exhibit “D” and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that the project, as designed, may have 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 the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 2620 1st Avenue, Marina, CA is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.
- 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: 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 would not have significant environmental impacts. The notice of intent to adopt a mitigated negative declaration and initial study were initially circulated on October 7, 2002. The following evidence has been received and considered: All comments on the Initial Study; 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:
- Project Application/plans/Interdepartmental Review Forms/Personal Communications;
 - Monterey County General Plan;
 - North County Land Use Plan;
 - Regulations for Development in the North County Area Plan (Chapter 20.144);
 - Hamby Biological Assessment, prepared by Bryan Mori Biological Consulting Services, June 27, 2001; and
 - Planner site visit on June 27, 2001.
- EVIDENCE: The Program for Monitoring and/or Reporting on Conditions of Approval, prepared and required pursuant to Section 21081.6 of the Public Resources Code, is made a condition of approval and is designed to ensure compliance during project implementation.
- EVIDENCE: 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: Studies, data and reports prepared by staff from various County departments including Planning

and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

EVIDENCE: The site has been reviewed for geology and soil erosion in the initial study and was found to cause no significant impact to the environment with the adoption of recommended mitigations (Mitigation #4)

EVIDENCE: The site was reviewed for biological resources by Bryan Mori Biological Consulting Services on June 27, 2001 and the proposal was found to cause no significant impact to the environment with recommended mitigations (Mitigations #1 through 3))

3. 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. The applicant proposes the conversion of 25.6 acres to agricultural use. The Biological Report prepared Bryan Mori on June 27, 2001 states that there is an area within the proposed project, which contains threatened or endangered species. The Initial Study concludes that this proposed grading would result in a potentially significant impact unless proper mitigations are followed.

4. FINDING: The site is physically suitable for the proposed use.

EVIDENCE: The only portion of the subject parcel to be converted to agricultural use is relatively flat with a slope of less than 15%, the utilization of this land has been reviewed by the Natural Resources Conservation Service, and best management practices have been stipulated.

5. FINDING: The project is consistent with the provisions of Ordinance 3932 of the Monterey County Water Resources Agency, amending Ordinance Nos. 3539 and 3596 and enacting mandatory water conservation regulations.

EVIDENCE: The project will include best management practices as prescribed by the Natural Resources Conservation Service.

6. FINDING: The establishment, maintenance, or operation of the use and building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and the accompanying materials was reviewed by the Monterey County Planning and Building Inspection Department, Public Works, Water Resources, Environmental Health, North County Fire Department, Agricultural Commissioner, and the North County (Coastal) Land Use Advisory Committee. These departments and agencies 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.

EVIDENCE: The studies and reports referenced in Findings #2, 3, and 4 above.

7. FINDING: The project is appealable to the Board of Supervisors.

EVIDENCE: Section 20.86 of the Monterey County Zoning Ordinance (Title 20).

DECISION

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 Coastal Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. This permit consists of Coastal Development Permit (PLN010119) to allow development of new or expanded agricultural operations if 50% or more of the parcel has a slope of 10%. 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 constructions other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities **(Planning and Building Inspection Department)**

Prior to the Issuance of Grading and Building Permits or no later than 60 days from the approval of this development permit:

2. The applicant shall record a notice which states: "A combined development permit (Resolution #010119) was approved by the Monterey County Planning Commission for Assessors Parcel Number 129-112-005-000 on November 13, 2002. The permit was granted subject to twelve (12) 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. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted for this project and pay the applicable mitigation monitoring fee. **(Planning and Building Inspection)**
4. 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 on or 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 Department)**
5. **WELL INFORMATION:** The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property any well logs available, and the number of current hookups. **(Water Resources Agency)**
6. Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "The following report have been prepared for this parcel and are on record in the Monterey County Planning and Building Inspection Department. All development shall be in accordance with this report: a Biological Assessment, prepared by Bryan Mori Biological Consulting Services, June 27, 2001 **(Planning and Building Inspection Department)**

Continuous Permit Conditions

7. 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 Department)**
8. All development allowed through this permit, including the water and sediment control basins, shall be maintained in good working order through the term of this development permit. **(Planning and Building Inspection Department)**

Conditions from the Mitigated Negative Declaration

9. **(Mitigation Measure #1)** The existing concentration of Monterey spineflower, just below the upper retention basin, shall be fenced off and protected from any grading or agricultural activities
MONITORING ACTION:
Prior to issuance of grading permit or no later than 60 days of the approval of this development permit:
 the applicant shall submit a report prepared by either a qualified biologist or the Natural Conservation Resource Service to the Director of Planning and Building Inspection Department, certifying that all protective measures have been made consistent with the guidelines in the biology report by Bryan Mori.
10. **(Mitigation Measure #2)** The drainage basins shall be designed as seasonal ponds, and allowed to dry by September 1 of each year. This will prevent the establishment of bullfrogs, which are detrimental to native reptile and amphibian populations
MONITORING ACTION:
Prior to issuance of grading permit or no later than 60 days of the approval of this development permit:
 the applicant shall submit a report prepared by the Natural Conservation Resource Service to the Director of Planning and Building Inspection Department, certifying that this measure has been met.
11. **(Mitigation Measure #3)** Additional grading / earth-moving to complete the detention basins, as well as any regular dredging and vegetation removal which may be required, shall be conducted during the dry season, when no water is present in the basins. Prior to earth-moving activities, an FWS-approved biologist shall survey the area to insure red-legged frogs are not present. If frogs are found, the biologist should capture and release the frog(s) in suitable habitat away from the disturbance area.

MONITORING ACTIONS:

Prior to grading permit final inspection or no later than 60 days of the approval of this development permit: the applicant shall submit a report from the Natural Resources Conservation Service stating that the grading was done during the dry season when no water was present in the basins.

Prior to grading permit final inspection or no later than 60 days of the approval of this development permit: the applicant shall submit a report from a FWS-approved biologist verifying that this mitigation measure has been successfully completed.

Ongoing: the Planning & Building Inspection Department will condition all future grading permits in and around the detention basins with this mitigation measure and monitoring actions, or their equivalent as approved by the Planning Director.

12. (Mitigation Measure #4) The best management practices of the Natural Resources Conservation Service (NRCS) shall be incorporated into the design of the grading and water retention plans.

MONITORING ACTION:

Prior to issuance of grading permit, or no later than 60 days of the approval of this development permit: the applicant shall submit a letter from the Natural Resources Conservation Service (NRCS) approving of grading and water retention plans.

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

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

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 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 project is located in the Coastal Zone and is appealable to the Board of Supervisors. This project is not appealable to the California Coastal Commission.

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.