

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

RESOLUTION NO. 03026

A. P. # 000-000-000-000

FINDINGS AND DECISION

In the matter of the application of
Monterey county Public Works (PLN020368)

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 the North Monterey County Area, Coastal Zone, came on regularly for hearing before the Planning Commission on May 14, 2003.

WHEREAS: Said proposal includes a:

- 1) Coastal Development Permit to allow construction of a Class I and III bicycle/pedestrian path, and
- 2) Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area. The proposed path is approximately 4.5 miles long and begins on Castroville Boulevard approximately 650 feet north of the intersection with Highway 156. The Class I path runs along Castroville Boulevard to Del Monte Farms Road. The path continues as a Class III path along Del Monte Farms Road to Ormart Road, crosses Castroville Boulevard and continues along Elkhorn Road to the Elkhorn Slough Visitor Center.

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

1. **FINDING: CONSISTENCY** - The Project, as conditioned is consistent with the North County Land Use Plan, Coastal Implementation Plan (Part 2), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20).
EVIDENCE: (a) PBI staff have reviewed the project as contained in the application and accompanying materials for consistency with the North County Land Use Plan, Coastal Implementation Plan (Part 2), Part 6 of the Coastal Implementation Plan. PBI staff have reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and have determined that the project is consistent with the North County Land Use Plan. Staff notes are provided in Project File PLN010363.
(b) Project planner conducted on-site inspections to verify that the proposed project conforms to the plans listed above.
(c) **LAND USE ADVISORY COMMITTEE:** The North County Coastal Land Use Advisory Committee recommended approval of the project by a vote of 6-0. LUAC meeting minutes dated December 02, 2002 (Exhibit "G").
(d) 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 Project File PLN020368.
2. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

3. **EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

4. **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: The project was reviewed by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department, Sheriff's Department, and North County Fire Protection District. The respective 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions (Exhibit "C").

5. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.
EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department, Sheriff's Department, and North County Fire Protection District. Conditions recommended have been incorporated.
(b) Technical reports by outside archaeology, biology and visual impact consultants indicate that there are no environmental constraints that would indicate the site is not suitable for the use proposed. "Prehistoric Survey" prepared by Archaeological Consulting on March 31, 1997; "Historic Survey" prepared by Kent L. Seavey on March 4, 1997; "Rare Plant Survey" prepared by Mara Noelle, April 29, 1997; "Natural Environmental Study" prepared by Brian Mori, Biological Consulting Services, dated April 29, 1997; "Biological Survey and Revised Natural Environmental Study" by Cara Galloway, EMC Planning Group Inc., October 2002. Reports are in Project File PLN010363.
(c) Staff conducted an on-site visit on September 20, 2002 to verify that the site is suitable for this use.
(d) Necessary public facilities are available and will be provided.

6. **FINDING: CEQA:** On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.
EVIDENCE: (a) The Monterey County Public Works Department prepared an Initial Study pursuant to CEQA. The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of Planning and Building Inspection Department and is hereby incorporated by reference. (PLN020368). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.
(b) A Condition Compliance and Mitigation Monitoring and/or Reporting Program has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. Applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition #3, Exhibit "E")

- (c) Evidence that has been received and considered includes:
 - 1) The application; 2) "Prehistoric Survey" prepared by Archaeological Consulting on March 31, 1997; 3) "Historic Survey" prepared by Kent L. Seavey on March 4, 1997; 4) "Rare Plant Survey" prepared by Mara Noelle, April 29, 1997; 5) "Natural Environmental Study" prepared by Brian Mori, Biological Consulting Services, dated April 29, 1997; 6) "Biological Survey and Revised Natural Environmental Study" by Cara Galloway, EMC Planning Group Inc., October 2002; 7) Staff reports that reflect the County's independent judgment; 8) Information and testimony presented during public hearings.

These reports are on file in the offices of PBI (PLN020368) and are incorporated by reference herein.

- (d) The mitigated negative declaration was circulated for public review from October 11, 2002 to November 10, 2002.
- (e) The County has considered the comments received during the public review period, and the County has added an additional monitoring action to Mitigation Measure #2 of the Mitigation Monitoring and Reporting Program to address the comments received.
- (f) The Monterey County Department of Planning and Building Inspection, located at 2620 1st Avenue, Marina CA, 93933, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based

7. **FINDING: ARCHAEOLOGICAL RESOURCES** - The proposed project is not likely to cause significant damage to archaeological or historical resources. The project is in conformance with the archeological resources policies of the North County Land Use Plan and the archeological resources development standards of the North county Coastal Implementation Plan.

- EVIDENCE**
- (a) A prehistoric survey was prepared for this project by Archaeological Consulting on March 31, 1997 and a historic survey was prepared for this project by Kent L. Seavey on March 4, 1997. The survey report confirms that the project site does not contain surface evidence of potentially significant cultural resources.
 - (b) Initial Study/Mitigated Negative Declaration prepared for the project and circulated for public review.

8. **FINDING: VISUAL RESOURCES** - The project is consistent with Section 2.2 of the Land Use Plan and Section 20.144.030 of the Coastal Implementation Plan dealing with Visual Resources. Project implementation will not adversely impact any scenic resources in the North County Land Use Plan area.

- EVIDENCE**
- (a) The project planner conducted site visits to verify consistency with development standards in the public viewshed as set forth in the Coastal Implementation Plan (Part 2).
 - (b) A visual impact assessment was prepared by EMC Planning Group Inc., dated June 15, 2001.
 - (c) The proposed project does not place structures in the public viewshed.
 - (d) Application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in project file PLN020368.

9. **FINDING: ENVIRONMENTALLY SENSITIVE HABITATS** - The project is consistent with the Environmentally Sensitive Habitats policies of the Land Use Plan and section 20.144.040 of the Coastal Implementation Plan dealing with development standards for environmentally sensitive habitats. Project implementation will not harm the long term maintenance of sensitive habitats adjacent to the project area.

- EVIDENCE** (a) A rare plant survey was prepared by Mara Noelle, April 29, 1997, a Natural Environmental Study, including a biological survey and wetland delineation was prepared by Brian Mori, Biological Consulting Services, dated April 29, 1997, and a biological study was prepared as part of the Initial Study and revised Natural Environmental Study by Cara Galloway, EMC Planning Group Inc., dated October 2002.
- (b) 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 federally threatened California Red Legged Frog and associated Environmentally Sensitive Habitat Areas (ESHA). The project design has been revised and appropriate mitigation measures were imposed on the project to bring the potential adverse impacts to a less than significant level. Mitigation measures include protective fencing, containment and regular disposal of trash, and training to construction workers on sensitive species and habitats.
- (c) Application materials, Initial Study with mitigation measures, Mitigation Monitoring Program, and Negative Declaration contained in project file PLN020368.

10. **FINDING: TRANSPORTATION** - The project is consistent with the Transportation policies of the Land Use Plan and Section 20.144.120 of the Coastal Implementation Plan dealing with Transportation Development Standards.

- EVIDENCE** (a) The proposed project for a bicycle lane provides a viable alternative to motorized transportation consistent with LUP Key Policy 3.1.1 and CIP Section 20.144.120.
- (b) Application materials and project plans contained in project file PLN020368.

11. **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 described as an area where the Local Coastal Program requires access.
- (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 6, the Shoreline Access/Trails Map, of the North County Land Use Plan.
- (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

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

- EVIDENCE:** (a) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

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

1. The subject Combined Development Permit consists of a Coastal Development Permit to allow construction of a class I and III bicycle/pedestrian path, and a Coastal Development Permit for development within 100 feet of

an environmentally sensitive habitat area. The project includes the removal of 15 planted Monterey pine trees ranging in size from 4 inches to 12 inches in diameter. The proposed path is approximately 6 miles long and begins on Castroville Boulevard approximately 650 feet north of the intersection with Highway 156. The class I path runs along Castroville Boulevard to Del Monte Farms Road. The path continues as a class III path along Del Monte Farms Road to Ormart Road, crosses Castroville Boulevard and continues along Elkhorn Road to the Elkhorn Slough Visitor Center. 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 or concurrent with recordation of the Notice of Determination

2. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant (Monterey County Public Works Department) shall pay a fee to be collected by the County of Monterey in the amount of **\$1,250. This fee shall be paid within five days of project approval** and concurrent with the recording of the Notice of Determination. Proof of payment shall be furnished by the applicant (Monterey County Public Works Department) 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 Monterey County Public Works Department shall agree to implement the Mitigation Monitoring and Reporting Plan approved by the Planning Commission on May 14, 2003 in accordance with Section 21080.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and Reporting Program is included in the staff report as Exhibit "E" and is incorporated herein by reference. **(Planning and Building Inspection)**

Prior to commencement of construction activities:

4. Prior to beginning work, evidence shall be submitted to the Monterey County Planning & Building Inspection Department that informal consultation with the U.S. Fish and Wildlife Service, and if required by the U.S. Fish and Wildlife Service, permits have been obtained or have been applied for from these agencies. **(Planning and Building Inspection)**
5. A note shall be included on a separate sheet of the improvement plans, or by separate document that shall indicate its relationship to the improvement plans, as follows: "Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection." This note shall also be included on all improvement plans and permits. **(Planning and Building Inspection)**
6. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
7. Upon completion of the development, the areas disturbed shall be restored to a condition to correspond with the adjoining area, subject to the approval of the Director of Planning and Building Inspection. Plans for such restoration shall be submitted to and approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
8. The Public Works Department shall acquire all required easements, rights of ways, or encroachment permits for the project. **(Public Works Department)**

Continuous Permit Conditions:

9. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 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)**
10. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. Applicant shall maintain the roadway of overhanging vegetation to allow the maximum road surface for cyclists. **(Planning and Building Inspection)**
11. No land clearing or grading shall occur on the project area between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 14th day of May, 2003 by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Diehl, Rochester, Wilmot
NOES: None
ABSENT: Parsons, Gonzalves

Original Signed By: _____

JEFF MAIN, 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 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.