

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

RESOLUTION NO. 03065

A. P. # 243-231-013-000

**FINDINGS AND DECISION**

In the matter of the application of  
**KARL & LISA KLEISSNER (PLN020392)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located at 35678 Highway 1, southwest of the Garrapata creek bridge adjacent to the Pacific Ocean, Big Sur area (Coastal Zone), came on regularly for hearing before the Planning Commission on October 8, 2003.

WHEREAS: Said proposal includes:

- 1) Coastal Administrative Permit to allow construction of a new detached 1,380 square foot 3-car garage for an existing house, a 420 square foot guesthouse attached to the proposed garage, and a fence along the south property line;
- 2) A Coastal Development Permit for development in the Critical Viewshed; and
- 3) A Coastal Development Permit for development in a parcel with a positive archaeological report.

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

**FINDINGS OF FACT**

1. **FINDING: CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.  
**EVIDENCE:** (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Big Sur Coast Land Use Plan and Coastal Implementation Plan (Part 3). PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and has determined that the project is consistent with the Big Sur Coast Land Use Plan which designates this area as appropriate for residential development.  
(b) Project planner conducted on-site inspections on October 14, 2002, January 23, 2003, and September 9, 2003 to verify that the project on the subject parcel conforms to the plans listed above.  
(c) The parcel is zoned Rural Density Residential, 40 acres per unit, Design Control District, 14 Feet Height Limit, Coastal Zone [RDR/40-D(14)(CZ)].  
(d) The project for a guesthouse and garage is an allowed use in accordance with Sections 20.16.040. B and E. The project is in compliance with Site Development Standards for these districts in accordance with Sections 20.16.060 and 20.17.060.  
(e) **ROCKY POINT EXEMPTION.** Although the site is located within the critical viewshed, Policy 3.2.5.F allows vacant parcels in the Rocky Point Area to develop under Policy 3.2.4, which applies to development not within the critical viewshed. The Planning and Building Inspection Department's interpretation of the LUP is that

development on non-vacant Rocky Point area parcels is also allowed under the same guidelines provided that intrusion in the critical viewshed is minimized to the greatest extent feasible. The proposed guesthouse and garage have been designed and sited to minimize their intrusion in the critical viewshed. Design characteristics include placing the structures around existing topographic features, planted roof, use of earth tone colors, and landscaping with native species. The height of the structure and fence does not extend above any existing landforms so it would not block any ocean view. Since it is possible for new landscape trees or shrubs to grow to an extent that could adversely impact scenic resources, a mitigation measure has been included that limits height of newly planted trees and shrubs so as not to block views any more than the proposed structure.

- (f) **ENVIRONMENTALLY SENSITIVE HABITAT.** A biological survey was conducted on the property in 1997 by Jud Vandevere and Associates for a prior owner of the property. This report identified that the area where the proposed building is located contained numerous (42) individual dune buckwheat (*Eriogonum parvifolium*), which is a known host plant for the endangered Smith's blue butterfly. In a September 24, 2002 letter, Jud Vandevere documented that during a July, 2000 field survey no Smith's blue butterflies were found and an April 5, 2003 letter reports that following the 1997 survey, "*the buckwheat and other native plants on the site were overwhelmed by an extremely thick growth of sea fig, Carpobrotus chilensis.*" Consequently, no buckwheat plants were found within the proposed building site. The April 2003 letter further states that following eradication of ice plant (sea fig), the current property owners seeded an area of the property with several native plant species including Dune Buckwheat, Lizard Tail, Beach Aster, Seaside Daisy, California Sagebrush, Mock Heather and Yarrow. Although it is possible that some of the original buckwheat plants not displaced by ice plant invasion were removed during ice plant eradication, the plants themselves are not protected and this impact has been mitigated through the above mentioned planting. As such, the butterfly habitat has been restored and no further mitigation is required.
- (g) **ARCHAEOLOGY.** An archeological survey identified that the parcel contains a portion of an archeological site. The building footprint was investigated further and the consulting archaeologist concluded that the site is of limited significance and is not unique. A mitigation measure requires that an archaeological monitor be present during excavation activities to ensure that no potential archaeological resources are impacted.
- (h) **LAND USE ADVISORY COMMITTEE:** The Big Sur Coast Land Use Advisory Committee recommended approval of the project by a vote of 5-0. LUAC meeting minutes dated March 11, 2003.
- (i) 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 PLN020392. Staff notes are provided in Project File PLN020392.

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.

**EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records

and is not aware of any violations that exist on the subject property.

3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:** (a) The project was reviewed by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and CDF-Carmel Hills. 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.
- (b) Technical reports have been provided by consulting geotechnical engineers and geologists with recommended conditions and modifications that provide additional assurances regarding project safety. ‘Geological Update Report - Proposed Guest House and Garage’, dated March, 2003 prepared by Geoconsultants, Inc.; ‘Geotechnical Update – Proposed Guest House and Garage’, dated March 7, 2003, prepared by Tharp & Associates. Reports are in Project File PLN020392.
4. **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 and CDF Carmel Hills Fire District. Recommended conditions have been incorporated.
- (b) Technical reports by outside archaeology, geology and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas or similar areas that would indicate the site is not suitable for the use proposed. ‘Geological Update Report - Proposed Guest House and Garage’, dated March, 2003 prepared by Geoconsultants, Inc.; ‘Geotechnical Update – Proposed Guest House and Garage’, dated March 7, 2003, prepared by Tharp & Associates. Reports are in Project File PLN020392.
- (c) Staff conducted an on-site visit on October 14, 2002 and January 23, 2003 to verify that the site is suitable for this use.
- (d) Necessary public facilities are available and will be provided.
5. **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 Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. This Initial Study identified potentially significant impacts to aesthetics, archaeological, and biological resources. The applicant has agreed to proposed mitigation measures that reduce the effects to a point where clearly no significant impact would occur. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference (PLN020392). All project changes required to avoid

significant effects on the environment have been incorporated into the project and/or are made conditions of approval (Condition 3).

- (b) A Mitigation Monitoring and/or Reporting Plan 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
- (c) Evidence that has been received and considered includes:
  - i) The application
  - ii) “*Biological Report* by Jud Vandevere and Associates, February 3, 1997; Letter by Jud Vandevere dated September 24, 2002 addressing adequacy of the 1997 Biological Report; Letter by Jud Vandevere dated April 5, 2003 addressing dune buckwheat *Eriogonum parvifolium*; *Geotechnical Update* by Tharp and Associates, Inc., March 7, 2003; *Geological Update Report* by Geoconsultants, Inc., March 12, 2003; *Preliminary Cultural Resources Reconnaissance*. Archaeological Consulting, October 3, 1996; Updated report for the 1996 reconnaissance. Archaeological Consulting, October 2002; Letter by Archaeological Consulting regarding recommended mitigation measures. June 5, 2003.
  - iii) staff reports that reflect the County’s independent judgment
  - iv) information and testimony presented during public hearings  
These reports are on file in the offices of PBI (File Reference PLN020392) and are incorporated by reference herein.
- (d) Adverse impacts to the Smith’s Blue butterfly could occur through impacts to seacliff buckwheat. These impacts have been reduced to a less than significant level through construction scheduling to avoid the butterfly’s flight season and the implementation of temporary construction barriers and dust control.
- (e) Adverse impacts to the critical viewshed could occur if newly planted vegetation grew to a height that would block ocean views. This potential impact has been reduced to a less than significant level by requiring a height limit on new landscaping.
- (f) Given the nature of archeological resources in a highly sensitive area, where they may be discovered during construction activities, potential adverse impacts could occur during construction. In order to reduce these potential impacts to a less than significant level, a mitigation measure has been imposed on the project to ensure that an archaeological monitor be present during construction activities.
- (g) The mitigated negative declaration was circulated for public review from July 21, 2003 to August 19, 2003. No comments were received by the public or any reviewing agencies.

6. **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 designated as Priority 2 for shoreline access as shown in Figure 2, the Shoreline Access Plan, of the Big Sur Coast Land Use Plan.
- (c) Public access to Garrapata State Beach is available in the area through a designated access point and trail located directly north of the Garrapata Creek Bridge.
- (d) Staff site visit on October 14, 2002 and September 9, 2003.

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

**EVIDENCE:** Section 20.86.030 of the Monterey County Coastal Implementation Plan (Part 1).

- (a) Section 20.86.080 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 Coastal Administrative Permit to allow construction of a new detached 1,380 square foot 3-car garage for an existing house, a 420 square foot guesthouse attached to the garage and a grape stake fence along the south property line; a Coastal Development Permit for development in the Critical Viewshed; a Coastal Development Permit for development in a parcel with a positive archaeological report. The property is located at 35678 Highway 1 (Assessor's Parcel Number 243-231-013-000), southwest of the Garrapata Creek bridge adjacent to the Pacific Ocean, Big Sur Area, Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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 Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution #03065) was approved by the **Planning Commission** for Assessor's Parcel Number Assessor's Parcel Number **243-231-013-000** on **October 8, 2003**. The permit was granted subject to **18** 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)**
3. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and/or Reporting Plan

contained in the staff report as **Exhibit E** is hereby incorporated herein in its entirety by reference. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(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 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, Fish and Game Code Section 711.4)**
5. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
6. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
7. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
8. The applicant shall incorporate the recommendations from the Geological Update Report - Proposed Guest House and Garage”, dated March, 2003 prepared by Geoconsultants, Inc. and the “Geotechnical Update – Proposed Guest House and Garage”, dated March 7, 2003, prepared by Tharp & Associates, into the building permit plans. **(Planning and Building Inspection)**
9. 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. **(Planning and Building Inspection)**
10. Prior to issuance of any grading or building permits, a road drainage and improvement plan shall be prepared by a registered civil engineer. **(Water Resources Agency)**
11. The existing driveway shall provide a turnout near the midpoint of the driveway. The turnout shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Prior to issuance of building permits, the applicant shall either demonstrate to the satisfaction of the Fire Department that an adequate turnout exists on the driveway or submit plans to the Fire Department for approval, showing the location and specifications of the proposed turnout. **(CDF Carmel Hills)**

12. This guesthouse with attached Group U occupancy requires an automatic fire sprinkler system due to the length of the driveway from fire department access. Fire sprinkler plans and specifications shall meet the provisions of NFPA 13-D (1999). At least four sets of plans and supporting documentation shall be submitted for review and approval prior to any work being done on the fire sprinkler system. **(CDF Carmel Hills)**
13. Sprinkler plans and documentation may be submitted directly to the plan reviewer **(CDF Carmel Hills)**:  
Carmel Fire Protection Associates  
P.O. Box 7168, Carmel-by-the-Sea  
California 93921

**Prior to Final Building Inspection/Occupancy:**

14. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
  - a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
  - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**
15. The site shall be landscaped as follows:
  - a. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval.
  - b. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal.
  - c. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan.
  - d. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department.  
**(Planning and Building Inspection)**

**Continuous Permit Conditions:**

16. 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)**

- 17. 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. **(Planning and Building Inspection)**
- 18. 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)**

**PASSED AND ADOPTED** this 8th day of September, 2003 by the following vote:

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

<b>Original Signed By:</b>
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 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 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.