

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

RESOLUTION NO. 03071

A. P. # 243-221-027-000

**FINDINGS AND DECISION**

In the matter of the application of  
**Daniele and Anita Gozzi TR (PLN020150)**

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 31549 Highway 1 (Assessor's Parcel Number 243-221-027-000), Big Sur, near the end of Victorine Ranch Road, Big Sur Coast, Big Sur Coast LUP (Coastal Zone), came on regularly for hearing before the Planning Commission on October 29, 2003.

WHEREAS: Said proposal includes:

- 1) Coastal Administrative Permit and Design Approval for an 864 sq. ft. detached two car garage; and
- 2) Coastal Development Permit to allow unpermitted development performed on slopes of 30% or greater, including grading for the proposed detached garage (230 cu. yds. of cut & 10 cu. yds. of fill) and associated retaining wall (to clear violation #CE010476), and additional development on slopes of 30% or greater for a proposed road realignment, including grading (767 cu. yds. of cut, 147 cu. yds. of fill & 620 cu. yds. of export).

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

**FINDINGS OF FACT**

- 1. FINDING: CONSISTENCY** – Combined Development Permit consisting of a Coastal Administrative Permit and Design Approval for an 864 sq. ft. detached two car garage; and a Coastal Development Permit to allow unpermitted development performed on slopes of 30% or greater, including grading (230 cu. yds. of cut & 10 cu. yds. of fill) for the proposed detached garage and associated retaining wall (to clear violation #CE010476), and additional development on slopes of 30% or greater for a proposed road realignment, including grading (475 cu. yds. of cut, 110 cu. yds. of fill & 365 cu. yds. of export). The proposed development, together with the provisions of its design, are consistent with both the *Big Sur Coast Land Use Plan* and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.145 (*Regulations for Development in the Big Sur Coast Land Use Plan*). The parcel is designated as “WSC/40-D (CZ)” (*Watershed and Scenic Conservation, 40 acres per unit, Design Control District, Coastal Zone*), which allows accessory residential development. The site is physically suited for the use proposed. The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No public 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:** The application and plans submitted for the Combined Development Permit in the project file at the Monterey County Planning and Building Inspection Department.

**EVIDENCE:** LAND USE ADVISORY COMMITTEE – Design Approval Request form with plans recommended for approval by the Big Sur Coast Land Use Advisory Committee with a 5 to 0 vote in favor of the project proposal; found in File No. PLN020150/Gozzi.

**EVIDENCE:** There has been no testimony received from the public either written or oral, during the course of public hearings to indicate that the site is not suitable for the project, although the Coastal Commission has raised concerns regarding the potential visual impacts of the development and the approval of new roads in Big Sur. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, the applicable Fire Department, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

**EVIDENCE:** The subject property is not adjacent to the sea shore and is not described as an area where the Local Coastal Program requires access, according to Sections 20.70.050.B.4.c.i and ii.

2. **FINDING: NOT WITHIN CRITICAL VIEWSHED** – The topography and tree cover along Highway 1 in the area of Victorine Ranch is such that the subject parcel lies entirely outside of the Critical Viewshed of Big Sur. Therefore, the proposed project will not impact the Critical Viewshed of Big Sur, consistent with Key Policy 3.2.1 of the *Big Sur Coast Land Use Plan*.

**EVIDENCE:** Application materials including site plans in file no. PLN020150

**EVIDENCE:** Multiple visits by the project planner to the subject parcel and vicinity of Victorine Ranch.

3. **FINDING: PRIVATE ROAD DEVELOPMENT STANDARDS** – The project proposes the realignment of an approximately 240 foot section of an existing access road that passes through the subject parcel to serve vacant parcels to the south. The original alignment will be blocked by the proposed detached garage so that no additional road will be created. The proposed realigned section of road is consistent with section 20.145.130.D.1 of the *Regulations for Development in the Big Sur Coast Land Use Plan*. In addition, at 12 feet wide, the road improvement will accommodate emergency vehicles pursuant to the requirements of the Fire Code.

**EVIDENCE:** Pursuant to Finding & Evidence 2, above, the project will not intrude on the Critical Viewshed.

**EVIDENCE:** Application materials including site plans in file no. PLN020150, as well as a favorable review from the Carmel Highlands FPD.

4. **FINDING: VIOLATION PENDING** – The subject property is currently in violation of Section 20.147.050.A of the *Regulations for Development in the Big Sur Coast Land Use Plan Area* because development was carried out without the benefit of permits. Approval of the current application (file no. PLN020150) clears the code violations.

**EVIDENCE:** On December 31, 2001, Code Enforcement case #CE010476 opened after Grading Inspector John Knight issued a stop-work order on the subject parcel due to grading performed and a retaining wall installed outside the scope of the approved grading permit (file no. GP000070).

5. **FINDING: HEALTH AND WELFARE** – The establishment, maintenance, or operation of the use or building 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 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, Health Department, Public Works Department, and the 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.

- 6. 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 the Carmel Highlands Fire Protection District. Conditions recommended have been incorporated.
  - (b) According a letter from the project’s consulting biologist, Jud Vandevere, dated April 27, 2003, no environmentally sensitive species or habitat will be adversely impacted by the development; letter in file no. PLN020150. Although, two Monterey ceanothus, which are on the California Native Plant Society’s “List 4” (i.e., “watch list”), will be impacted by the proposed road realignment. These plants can and will be replaced pursuant to Condition 9.
  - (c) A report, entitled “*Evaluation of Potential Impacts to Monterey Pine Trees*,” dated September 23, 2003, was prepared by Certified Arborist Maureen Hamb. This report notes that the project can be modified to reduce potential impacts to Monterey pines (see Conditions 7, 8 and 10).
  - (d) The project’s seismic hazard zone is listed as a “Relatively Stable Area” according to the resource maps of the *Big Sur Coast Land Use Plan*.
  - (e) The project as proposed is consistent with policies of the *Big Sur Coast Land Use Plan* dealing with development in areas of high archaeological sensitivity. An archaeological report, dated June 1981, had previously been prepared for the subject parcel by Archaeological Consulting. No evidence of potentially significant archaeological resources were identified. No known positive archaeological sites are located within 750 feet of the project site.
  - (f) Necessary public facilities are available and have been provided.
- 7. FINDING: SLOPE WAIVER** – The request for the proposed development to be located on slopes of 30% or more is consistent with Section 20.145.140.A.4.a of the *Regulations for Development in the Big Sur Coast Land Use Plan Area*, which allows development on slopes of 30% or greater where no alternatives exist that would allow the development to occur on slopes of less than 30%.
- EVIDENCE:** The topography of the subject parcel is very irregular. The limited areas of the parcel with slopes less than 30% are occupied by an existing single-family dwelling and a separate additional access road that serves parcels to the west of the subject lot.
- EVIDENCE:** There is no alternative location for a detached garage that would maintain the required 50 foot setback from the exiting roadway or the proposed road realignment.
- EVIDENCE:** There is no alternative road realignment that would allow the development to take place on slopes of less than 30%.
- EVIDENCE:** Both proposals, as conditioned, better meet the resource protection objectives and policies of the *Big Sur Coast Land Use Plan* and development standards of the *Regulations for Development in the Big Sur Coast Land Use Plan* by avoiding the removal of protected native Monterey pines, which have since grown within the path of the original road alignment.
- 8. FINDING: CEQA** – The approved project will not have a significant adverse impact on the environment.
- EVIDENCE:** Criteria contained in Article 19, Sections 15300.2 (Exceptions), 15303 (Small Structures), & 15304 (Minor Alterations to Land) of the California Environmental Quality Act Guidelines allow this project to be categorically exempted from environmental review.

**EVIDENCE:** According a letter from the project’s consulting biologist, Jud Vandevere, dated April 27, 2003, no environmentally sensitive species or habitat will be adversely impacted by the development; letter in file no. PLN020150. Although two Monterey ceanotha, which are on the California Native Plant Society’s “List 4” (i.e., “watch list”), will be impacted by the proposed road realignment. These plants will be replaced pursuant to Condition 9.

**EVIDENCE:** A report, entitled “*Evaluation of Potential Impacts to Monterey Pine Trees,*” dated September 23, 2003, was prepared by Certified Arborist Maureen Hamb. This report notes that the project can be modified to reduce potential impacts to Monterey pines, (see Conditions 7, 8, and 10).

**EVIDENCE:** The project’s seismic hazard zone is listed as a “Relatively Stable Area” according to the resource maps of the *Big Sur Coast Land Use Plan*.

**EVIDENCE:** The project as proposed is consistent with policies of the *Big Sur Coast Land Use Plan* dealing with development in areas of high archaeological sensitivity. An archaeological report, dated June 1981, had previously been prepared for the subject parcel by Archaeological Consulting. No evidence of potentially significant archaeological resources was identified. No known positive archaeological sites are located within 750 feet of the project site.

**9. FINDING: APPEALABILITY** – The project, as approved by the Coastal Development Permit, is appealable to the Board of Supervisors and the California Coastal Commission.

**EVIDENCE:** Sections 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan.

### **DECISION**

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. Combined Development Permit consisting of a Coastal Administrative Permit and Design Approval for an 864 sq. ft. detached two car garage; and a Coastal Development Permit to allow unpermitted development performed on slopes of 30% or greater, including grading for the proposed detached garage (230 cu. yds. of cut & 10 cu. yds. of fill) and associated retaining wall (to clear violation #CE010476), and additional development on slopes of 30% or greater for a proposed road realignment (maximum 12 feet wide), including grading (475 cu. yds. of cut, 110 cu. yds. of fill & 365 cu. yds. of export). 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)**
2. This permit shall expire two years from the date of adoption unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan. **(Planning and Building Inspection)**
3. 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)**
4. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection)**

5. 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)**

**Prior to the Issuance of Grading and Building Permits:**

6. The applicant shall record a notice which states: *“A permit (Resolution #03071) was approved by the Planning Commission for Assessor's Parcel Number 243-221-027-000 on October 29, 2003. The permit was granted subject to 16 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. The grading plans shall be revised to reflect that, 1) grade changes affecting the critical root zone of tree #5 (as indicated in the arborist's report) are eliminated from the project proposal, 2) the realigned road is designed at no more than 12 feet wide and avoids tree #5, and 3) revised grading amounts shall be substantially equal to, or less than, 475 cu. yds. of cut, 110 cu. yds. of fill, with 365 cu. yds. of export. **(Planning and Building Inspection Department)**
8. Protected trees which are located close to the construction site (trees 1 through 6, as listed in the arborist's report) shall be protected from inadvertent damage from construction equipment by fencing off the trees' critical root zones with protective materials pursuant to the arborist's diagram. Fill of any type against the base of the trunks and an increase in soil depth at the feeding zone or drip line of the retained trees shall be avoided. A supplemental irrigation plan, prior to and during the construction process, shall be developed for trees 1 through 6. 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 Department)**
9. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Carmel Highlands FPD)**

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

10. The site shall be landscaped. Pursuant to the biologist's report, at least two Monterey ceanotha shall be included in the landscaping plan, along with appropriate revegetation of the cut slopes, in accordance with the erosion control notes on the grading plans. At least three weeks prior to final inspection, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. 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. Within 60 days of final building or grading inspection (which ever is later), 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. All landscaped areas and/or fences 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 Department)**
11. The applicant shall comply with Ordinance No. 3932 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. 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)**
- 12. 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 3 copies of an exterior lighting plan for the new garage 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)**
- 13. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances and be capable of supporting the imposed load of fire apparatus (60,000#). **(Carmel Highlands FPD)**
- 14. Where gates are to be locked, a Knox Security System shall be installed for immediate access of emergency equipment. **(Carmel Highlands FPD)**

**Continuous Permit Conditions:**

- 15. 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 (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)**
- 16. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 29<sup>th</sup> day of October, 2003 by the following vote:

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

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 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.