

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

RESOLUTION NO. 03076

A.P. # 416-011-006-000

In the matter of the application of  
**State of California Department of Parks & Recreation (PLN030175)**

**FINDINGS & DECISION**

for a Coastal Development Permit in accordance with Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow for development within 100 feet of environmentally sensitive habitat, consisting of the restoration of approximately 2,500 sq. ft. of maritime chaparral habitat. The property is adjacent to 3000 Red Wolf Drive, Carmel, east of Highway 1, Carmel Highlands area, Coastal Zone, came on regularly for hearing before the Planning Commission on November 12, 2003.

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 all applicable plans and policies, including the *Carmel Area Land Use Plan* and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.146 (*Regulations for Development in the Carmel Area Land Use Plan*), and the zoning code (Title 20) and Part 6 of the Coastal Implementation Plan (Appendices). The parcels are designated as “WSC/40-D (CZ)” (*Watershed and Scenic Conservation, 40 acres per unit, Design Control District, Coastal Zone*) which conditionally allows development within 100 feet of sensitive habitat.

**EVIDENCE:** (a) Planning and Building Inspection Department (PBID) staff reviewed the project as contained in the application and accompanying materials for consistency with the *Carmel Area Land Use Plan*, the *Regulations for Development in Carmel Area Land Use Plan*, and Part 6 of the Coastal Implementation Plan (Appendices), and with the Monterey County Zoning Ordinance (Title 20). Staff determined that the project is consistent with the *Carmel Area Land Use Plan*, which conditionally allows development within 100 feet of environmentally sensitive habitat.

(b) The project planner conducted onsite inspections in August of 2002 on September 4, 2003, to verify that the project on the subject parcel conforms to the plans mentioned above.

(c) The project to allow restoration of maritime chaparral constitutes development within 100 feet of environmentally sensitive habitat, which is a conditionally allowed use in accordance with Chapter 20.17 (WSC [CZ] Districts) of Title 20.

(d) The parcel is zoned Watershed and Scenic Conservation, 40 acres per unit, Design Control District, Coastal Zone (“WSC/40-D [CZ]”). The project is in compliance with the Environmentally Sensitive Habitat Development Standards of the *Regulations for Development in Carmel Area Land Use Plan* in accordance with Section 20.146.040 of the County’s certified Local Coastal Program.

(e) The Carmel Area Land Use Advisory Committee recommended approval of the project by a vote of 6 to 0. LUAC meeting minutes dated July 7, 2003.

(f) Environmentally Sensitive Habitat Area. See Finding #6.

(g) 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 No. PLN030175.

- 2. 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, Water Resources Agency, Environmental Health, Parks & Recreation, and the Carmel Highlands FPD. Conditions recommended have been incorporated.  
(b) A restoration plan by an outside biological consultant indicates that there are no unmitigatable physical or environmental constraints that would indicate the site is not suitable for the use proposed. Agency staff concurs. The restoration plan notes are printed on the proposed plans and are included herein by reference. Restoration plan in Project File No. PLN030175.  
(c) The project planner conducted onsite inspections in August of 2002 on September 4, 2003, to verify that the site is suitable for this use.  
(d) Necessary public facilities are available and will be provided.
- 3. FINDING: CEQA (Exempt)** – The project is exempt from environmental review.  
**EVIDENCE:** (a) CEQA Guidelines Section 15304 allows minor alterations to land to be categorically exempted from environmental review.  
(b) No adverse environmental effects were identified during staff review of the development application and during site visits in August of 2002 and on September 4, 2003.
- 4. 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 subject property.
- 5. 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 Section 20.70.050.B.4 of Title 20).  
**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 3 of the Public Access Map in the *Carmel Area 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.  
(d) Staff site visits in August of 2002 on September 4, 2003.
- 6. FINDING: DEVELOPMENT W/IN 100’ OF ENVIRONMENTALLY SENSITIVE HABITAT** – Consistent with the requirements of Sections 20.146.040.B (General Development Standards) and 20.146.040.C (Specific Development Standards) of the *Regulations for Development in the Carmel Area Land Use Plan*, and related policies of the *Carmel Area Land Use Plan*,

the project, as conditioned, will not have negative effects on the long-term maintenance of environmentally sensitive habitats.

**EVIDENCE:** (a) Pursuant to Finding & Evidence 3, above, the project is found to be Categorical Exempt from CEQA review requirements.

(b) In order to ensure that the project is successful in restoring the site, so as to ensure that the project's failure will not have negative effects on the long-term maintenance of environmentally sensitive habitats such as maritime chaparral, Condition 5 allows the applicant to apply for a waiver and refund of associated permit fees once the disturbed site is verified as restored, pursuant to Condition 6.

**7. 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) Preceding findings and supporting evidence.

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

**EVIDENCE:** (a) 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 for a Coastal Development Permit be granted as shown on the attached sketch, subject to the following conditions:

1. Coastal Development Permit allows development within 100 feet of environmentally sensitive habitat, consisting of the restoration of approximately 2,500 square feet of maritime chaparral habitat as described on the project plans (PLN030175). 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)**

**Within 30 days of Project Approval:**

- 3. The applicant shall record a notice which states: *‘A permit (Resolution #03076) was approved by the Planning Commission for Assessor's Parcel Number 416-011-006-000 on November 12, 2003. The permit was granted subject to 6 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)**

**Continuous Permit Conditions:**

- 4. 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)**
- 5. The applicant may apply for a waiver and refund of fees totaling \$2,922.00 for the subject Coastal Development Permit, once the project site has been verified as restored by a qualified biologist, in accordance with the approved restoration plan and Condition 6, below (file no. PLN030175). **(Planning and Building Inspection)**
- 6. In order to ensure the success of the restoration plan, quarterly monitoring, and annual reporting shall be extended for 5 years, starting once initial planting and restoration has been completed. The reports covering quarterly inspections of the previous year shall be submitted to, and accepted as adequate by, the Director of Planning and Building Inspection for approval. After 5 *consecutive* years of approved reports demonstrating the success and progress of the restoration, the applicant may apply for a fee waiver & refund pursuant to Condition 5, above. A failure to ensure and verify progress one year will require the consecutive 5-year monitoring schedule to restart. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 12th day of November, 2003, by the following vote:

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

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| <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 Planning Commission 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 Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.