

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

RESOLUTION NO. 03077

A. P. # 420-021-027-000

In the matter of the application of
Salvatore Anthony Lucido TR (PLN030232)

FINDINGS & DECISION

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit and Design Approval to allow existing unpermitted structures (holding pens, monitoring & communications facility, 3 trailers, 2 outhouses, water & septic systems) and the construction of a new cabin with detached carport to replace one lost through fire; and a Coastal Development Permit for development on slopes of 30% or greater. Existing and proposed building-coverage totals approximately 7,000 sq. ft. All development is accessory to the Ventana Wilderness Society's condor reintroduction program. The property is located near Anderson Canyon, off Coast Ridge Road, Big Sur Coast Land Use 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,

- 1. FINDING: CONSISTENCY** – The Project, as conditioned, is consistent with all applicable plans and policies, including 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*), 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 allows the continuance of legal non-conforming uses where such uses are not expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established and are not intensified over the level of use that existed at the time the legal nonconforming use was established.

EVIDENCE: (a) Planning and Building Inspection Department (PBID) staff have reviewed the project as contained in the application and accompanying materials for consistency with the *Big Sur Coast Land Use Plan*, the *Regulations for Development in the Big Sur Coast Land Use Plan*, and Part 6 of the Coastal Implementation Plan (Appendices). PBID 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 *Big Sur Coast Land Use Plan* which designates this area as appropriate for the continuance of legal non-conforming uses where such uses are not expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established and are not intensified over the level of use that existed at the time the legal nonconforming use was established. Permit application, plans, and materials contained in Project File No. PLN030323.

(b) Project planner conducted onsite inspections on May 22, 2003 to verify that the project

on the subject parcel conforms to the plans mentioned above.

(c) The project, pursuant to Conditions 1 & 6, allows improvements to a legal nonconforming use, in accordance with Chapter 20.68 of Title 20 (Legal Nonconforming Uses).

(d) The parcels are Watershed and Scenic Conservation, 40 acres per unit, Design Control District, Coastal Zone (WSC/40-D [CZ]). The project is a legal nonconforming use in compliance with Chapter 20.68 of Title 20 (Legal Nonconforming Uses), since the existing use has not intensified or expanded beyond the scope of the original use permitted by California Coastal Commission Resolution 81-93, which was for wildlife reintroduction programs.

(e) The subject parcels straddle the border between the two LUAC's in the *Big Sur Coast Land Use Plan* area. In a joint meeting on August 12, 2003, members of both committees voted to recommend approval of the project with a vote of 9 to 0 (with two members absent).

(f) 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. PLN030323.

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 California Department of Forestry and Fire. Conditions recommended have been incorporated.

(b) A report by an outside biologist reveals that there are no environmental constraints that would indicate the site is not suitable for the use proposed. Agency staff concurs. Reports are in Project File No. PLN030323.

(c) Staff conducted an onsite inspection on May 22, 2003 to verify that the site is suitable for this use.

(d) Limited necessary public facilities are available and will be provided.

3. FINDING: CEQA (exempt) – The proposed project will not have a significant environmental impact.

EVIDENCE: (a) CEQA Guidelines Section 15303 lists criteria that allow the new construction, or conversion, of small structures to be categorically exempted from CEQA review, while Section 15304 lists criteria that allow minor alterations to land to be categorically exempted from CEQA review.

(b) No adverse environmental effects were identified during staff review of the development application and materials or during a site visit on May 22, 2003. Therefore, the exceptions to the exemptions listed under Section 15300.2 of the CEQA Guidelines are found not to apply.

(c) A Biological Report prepared by the project's consulting biologist, Craig Hohenberger, dated June 14, 2003, found that no environmentally sensitive species or habitat has or will be adversely impacted by the existing or proposed development; file no. PLN030232.

(d) Existing and proposed development is largely contained in an already-disturbed area of the property that has been in use since its original homestead in the mid-1800's. No trees have been or will be removed.

4. FINDING: VIOLATIONS PENDING – The subject property is currently in violation of the County's Local Coastal Program because development was carried out without the benefit of discretionary and ministerial permits. Approval of the current application (File No. PLN03232) resolves the zoning code (Title 20) violations by bringing the subject property into compliance with all rules and regulations pertaining to it.

EVIDENCE: (a) During the course of project review by PBID staff, it was revealed that several structures and water & septic systems have been built at the properties without the benefit of Coastal Development Permits, Design Approvals, or grading and building permits.
 (b) Condition 4 requires that the owner/applicant apply for building & grading (as applicable) permits for all unpermitted structures in order to resolve all code violations.

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 or trails as indicated by Figure 3 of the Trails Plan and Figure 2 of the Shoreline Access Map of the *Big Sur Coast Land Use Plan*.
 (b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

6. FINDING: SLOPE WAIVER – The request for the proposed development to be located on slopes of 30% or greater is consistent with Section 20.145.140.A.4 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% or where the proposed development better achieves the resource protection objectives and policies of the *Big Sur Coast Land Use Plan Area* and developments standards of the *Regulations for Development in the Big Sur Coast Land Use Plan Area*.

EVIDENCE: (a) The condor reintroduction program run by the Ventana Wilderness Society at the subject parcels requires that the condor pen be placed on slopes of 30% or greater so that when the condors leave the pen, they can catch the updraft blowing up slope, which they need in order to launch into flight. Therefore, no alternatives exist that would allow the development to occur on slopes of less than 30%.
 (b) Application, materials, and plans in Project File No. PLN030232.
 (c) Site visit by PBID staff on May 22, 2004.

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 Combined 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

It is the decision of the Planning Commission that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. Combined Development Permit grants a Coastal Administrative Permit and Design Approval to allow existing unpermitted structures (holding pens, monitoring & communications facility, 3 trailers, 2 outhouses, water & septic systems) and the construction of a new cabin with detached carport to replace one lost through fire; and a Coastal Development Permit for development on slopes of 30% or greater. Existing and proposed building-coverage totals approximately 7,000 sq. ft. All development is accessory to the Ventana Wilderness Society's condor reintroduction program. 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. The applicant shall apply for as-built building and grading (as applicable) permits for all existing structures within 90 days of project approval. **(Planning and Building Inspection Department)**

Prior to the Issuance of Grading and Building Permits:

5. The applicant shall record a notice which states: *“A permit (Resolution #03077) was approved by the Planning Commission for Assessor's Parcel Numbers 420-021-026-000 & 420-021-027-000 on November 12, 2003. The permit was granted subject to 12 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)**
6. The applicant shall record a notice which states: *“Planning Commission Resolution No. 03077 allows limited improvements, as described in Condition 1, to a legal non-conforming wildlife reintroduction program for the purposes and level of use on Assessor's Parcel Numbers 420-021-026-000 & 420-021-027-000 outlined in letters from the applicant (the Ventana Wilderness Society) to the County of Monterey dated April 29 and October 15, 2003 contained in project file no. PLN030232.”*

Prior to Final Building/Grading Inspection:

7. 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. 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.
8. 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 existing and proposed development 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)**
9. Fire sprinkler systems conforming to NFPA 13D-1999 are required in the new cabin and the relocated trailer due to sub-minimum access to the site. **(California Department of Forestry and Fire Protection)**
10. Cabin roof to be ICBO Class "A." **(California Department of Forestry and Fire Protection)**
11. Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. Prior to issuance of grading and/or building permits, the applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans. Prior to final building inspection, the applicant shall schedule fire dept. clearance inspection **(California Department of Forestry and Fire Protection)**

Continuous Permit Condition:

12. 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)**

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

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

