

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

RESOLUTION NO. 03084

A. P. # Highway 1 Right-of-Way

**FINDINGS AND DECISION**

In the matter of the application of  
**TAMC (PLN030123)**

for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code has considered, at public hearing, a Coastal Development Permit and Design Approval for Development in the Critical Viewshed to allow installation of eight (8) emergency call boxes, located along Highway 1 on the east side of the highway except for the call box at Big Creek Bridge, Call Box #1 is located in the Carmel Area Land Use Plan and all others are located in the Big Sur Coast Land Use Plan, Coastal Zone; an additional two call boxes are proposed with this project application, one at Pacific Valley USFS Ranger Station – PM 14.6 and one at Salmon Creek USFS Station – PM 2.4 both are in U.S. Forest Service Lands and are not under County permitting authority, came on regularly for hearing before the Planning Commission on December 10, 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 applicable plans and policies, the Carmel Area Land Use Plan, Big Sur Coast Land Use Plan, Coastal Implementation Plan (Parts 3 & 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for public/quasi-public uses.  
**EVIDENCE:** (a) Plan Conformance. PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3 & 4), Part 6 of the Coastal Implementation Plan. 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 have determined that the project is consistent with the Carmel Area Land Use Plan and Big Sur Coast Land Use Plan, which designate this area as appropriate for public/quasi-public development. Staff notes are provided in Project File PLN030123.  
(b) Site Visit. Project planner conducted an on-site inspection on June 16, 2003 to verify that the project in the subject locations conforms to the plans listed above.  
(c) Land Use. The project for eight (8) call boxes within the Highway 1 right-of-way is a conditionally allowed use as a public/quasi-public use, in accordance with Section 20.40.050 CIP. An additional two (2) call boxes proposed at Pacific Valley (PM 14.6) and Salmon Creek (PM 2.4) USFS stations are located on federal lands and are not under County permitting authority.  
(d) Zoning Consistency. The project is located within the state highway right-of-way, which is designated Public/Quasi-Public District, Coastal Zone. The project is in compliance with Site Development Standards for a Public/Quasi-Public District in accordance with Section 20.40.060 CIP.  
(e) Visual/Scenic Resources. See Finding #6.  
(f) Environmentally Sensitive Habitat (ESHA). See Finding #2.  
(g) Cultural Resources. See Finding #2.

- (h) Land Use Advisory Committee (LUAC): The Big Sur Coast/South Coast LUAC reviewed the project on August 26, 2003 and the Carmel Highlands/Unincorporated LUAC reviewed the project on September 2, 2003. The Big Sur Coast/South Coast LUAC recommended approval of the project by a vote of 5-1 and the Carmel Highlands/Unincorporated LUAC recommended approval of the project by a vote of 6-0. They noted that the call boxes would be an asset to the corridor for reporting emergencies and recommended addressing design and safety issues. Their issues are addressed below:
- *Design and Location.* The applicant modified the design to reduce the size of the signs and using matte earth tone colors to minimize the visual impact while still trying to meet operational requirements. The number of sites was minimized from the original 35 down to 10. Specific locations were carefully chosen to cluster development and to avoid obstructing any views. Condition #6 requires permit renewal in five years in order to evaluate the need and purpose of each call box. The call box color was modified from the standard yellow color to a muted green, a color that would be sufficiently contrasting so that it could be noticeable, while also being suitable to the natural outdoor setting.
  - *Safety.* The location of the Monastery Beach call box was chosen to preserve scenic views of the ocean by locating it on the east side of the highway. The proposed location is on the edge of a paved shoulder, which is substantially wider at this location than at other sites, approximately 8 feet compared to 2 to 4 feet wide. Because this segment of the road is more open and not visually narrowed by steep cliffs and because it is located at the edge of the pavement, which is as far off of the road as possible. The Monterey County Sheriff's Department reviewed the project and while commenting on potential safety issues with the site, did not find it a significant issue or require a change, nor did they comment on any of the other east side call boxes.
- (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 PLN030123.

2. **FINDING - SITE SUITABILITY:** The site is suitable for the proposed use.

- EVIDENCE:** (a) The project has been reviewed for suitability by Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, Carmel Highlands Fire Protection District, Carmel Hills Fire Protection District and the Monterey County Sheriff's Department. Conditions recommended have been incorporated.
- (b) The project sites were reviewed by a Caltrans archaeologist and biologist. Their technical reports indicate that there are no physical or environmental constraints such as environmentally sensitive habitats or similar areas that would indicate the site are not suitable for the use proposed. Two of the sites were surveyed and the locations revised to ensure that the projects were well outside of the boundaries of any known archaeological sites. In addition, "*ground disturbing work at each callbox location is very minimal, and the potential for impacting buried archaeological sites is highly unlikely.*" There were no biological concerns at any of the sites.
- Letter from Kelda Wilson, Caltrans District Archaeologist, to Kenneth Kao, dated July 10, 2003, regarding the preliminary cultural resources review.
  - Caltrans Review of Biological Resources.
- These reports are in Project File PLN030123.

- (b) Staff conducted field investigations on June 16, 2003 to verify that the sites are suitable for the proposed use.
- (c) Necessary public facilities are available and will be provided. The call boxes will utilize solar panels for power and will be connected via existing land lines where available or cellular and satellite technology.

3. **FINDING - CEQA (Negative Declaration)**: On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed project as designed and conditioned will have a significant effect on the environment. The 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. The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a negative declaration. This Initial Study is on file in the offices of the Planning and Building Inspection Department and is hereby incorporated by reference. (PLN030123).
  - (b) Evidence that has been received and considered includes:
    - The application and materials
    - Letter from Kelda Wilson, Caltrans District Archaeologist, to Kenneth Kao, dated July 10, 2003, regarding the preliminary cultural resources review.
    - Caltrans Review of Biological Resources.
    - Staff site visit on June 16, 2003.
    - Staff reports that reflect the County's independent judgment
  - (c) These reports are on file in the offices of PBI (File Reference No. PLN030123) and are incorporated by reference herein.
  - (d) Potential visual impacts have been minimized through design modifications and careful siting. The call box signs have been reduced to a minimum size and the pole and call box will be painted in earth tone brown and green colors to compliment the outdoor setting. No extraneous signs are proposed. Except for at the Big Creek Bridge location, all of the call boxes are located on the inland (east) side of the highway in order to prevent any interruption of ocean views. The call box at the Big Creek Bridge site is set against a rock outcropping and does not obstruct any views. The call boxes are clustered with other development where possible and located in areas currently receiving public use where parking is available, such as at bus stops, turnouts and parking areas. In general, a backdrop of trees and shrubs or a hillside stands behind each call box site so that the call box does not stand out alone. In addition, the number of call boxes was reduced from the original proposal for 35 down to the current 10.
  - (e) The negative declaration was circulated for public review from October 9, 2003 to November 7, 2003. The County has considered the comments received during the public review period, and they do not alter the conclusions in the Initial Study and negative declaration. Comments addressed below:
    - Visual Resources. *A comment was received that an EIR is required based on the potentially significant impact of the call boxes. They dispute whether the project is a highway safety improvement (Policy 3.2.5.C.1) exempt from the Critical Viewshed policy of the Big Sur Land Use Plan (Policy 3.2.1) that prohibits development visible from Highway 1. It notes that "the safety benefit of the proposed call boxes is doubtful given their sparse distribution and the existence of alternative means of emergency communication" and "because mobile phone coverage is a superior and less visually intrusive means of providing emergency communications.*

RESPONSE: Call boxes have been installed along highways in California as a recognized safety improvement. The number of proposed call boxes was reduced from 35 down to 10 and spread farther apart in order to minimize visual issues. The call box system is designed as a basic lifeline along the highway. Cell phone service in Big Sur is unreliable and there are people without cell phone service. Increasing cellular coverage would create more significant visual issues in order to locate the facilities necessary for the various provider services. The project has been designed to ensure that visual impacts are at a less than significant level.

- Agricultural Resources near the Sandy Flats location (PM 55.7). *A comment states that installation of a call box adjacent to the Ranch is “an attractive nuisance that will further intensify trespass on the Ranch and additionally burden its agricultural operations.”*

RESPONSE: The proposed call box at this site is at an existing turnout. The call boxes are for emergency use and will not significantly increase the number of cars stopping there. There is not “substantial evidence” that call boxes increase occurrences of trespassing or impact agricultural resources/operations.

- Placement. One comment supported placement of a call box at the Garrapata Beach location because of the dangerous currents and surf and lack of cell phone coverage.
- (f) De Minimus Finding. The project was determined to be exempt from the Fish and Game fee because the project occurs in already disturbed areas of the highway right-of-way with minimal excavation to insert the call box poles and no possibility of disturbing sensitive biological resources.
- (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 PLN030123.

3. **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.

4. **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 project is located within the state Highway 1 right-of-way, which is the primary means of public access to the Big Sur Coast area.

- (b) The project as designed and conditioned does not impede public access or interfere with visual access of the ocean.

(c) Staff site visit on June 16, 2003.

3. **FINDING - SCENIC RESOURCES:** The subject project is consistent with Visual Resource Policies of the Big Sur Coast Land Use Plan and the Carmel Area Land Use Plan.

**EVIDENCE:** (a) Policy 3.2.1 of the Big Sur Coast Land Use Plan (LUP) prohibits development within the “critical viewshed,” which is defined as areas visible from Highway 1 with some exceptions. The intent of the policy is to preserve the scenic quality and character of the Big Sur Coast. However, highway safety improvements are allowed provided they

meet visual criteria to minimize visibility (Policy 3.2..5.C.1). The project has minimized visibility through design modifications and siting considerations while still meeting project requirements. In addition, a condition has been incorporated limiting the life of the permit to five years and requiring a renewal in order to reevaluate the usage and need for the call box system. The project as designed and conditioned is consistent with the policy.

- (b) Policy 2.2.2 of the Carmel Area Land Use Plan directs that development harmonize with the scenic character of the area and strive for minimum visibility. Site locations were chosen to minimize visual impacts and visibility while still meeting transportation and safety needs and allowing people to identify and find the call boxes. The number of sites was reduced from 35 to 10. Facilities must be visible to be effective for emergency purpose, but using natural colors and matte finishes reduce potential impacts. The project as designed and conditioned is consistent with the policy.
- (c) Policy 4.1.2.1 of the Big Sur LUP states that *“Improvements to Highway 1 shall be undertaken in order to increase its service capacity and safety, consistent with its retention as a scenic two-lane road.”* The eight call boxes locations within the highway right-of-way are close to areas where traffic accidents have occurred and where they would provide the most benefit. They were also chosen because they allow the call boxes to be clustered with other development in areas currently receiving public use where parking is available, such as at bus stops, turnouts and parking areas, consistent with Policy 3.2.3.2 which discusses techniques such as clustering structures. A condition has been incorporated for the Bixby Creek Bridge call box (PM 59.5) to be removed or relocated to a more appropriate site, in the event that the other nearby structures are removed and clustering is no longer possible at that location. The call boxes are located on the edge of these disturbed areas.
- (d) All but one of the sites is located on the inland (east) side of the highway in order to prevent any interruption of ocean views, pursuant to Policy 3.2.4.A.1. While the particulars at each site differ, in general the call boxes have a backdrop of trees and shrubs or a nearby cliff behind them to provide some screening and avoid open hillsides, as described in Policy 3.2.4.A.2. In addition, the number of call boxes was reduced from the original proposal for 35 down to the current 10.
- (e) The call box design has been modified to minimize their visibility, pursuant to Policy 3.2.4.A.3 regarding the design of new development. The two attached call box signs have been reduced from the standard 30”x36” size for the text sign and 12”x18” for the icon sign down to a minimum necessary size of 12”x18” and 6”x12” respectively. The pole and call box will be painted in earth tone brown and green colors to compliment the outdoor setting with a matte finish to reduce reflection. Extraneous signs were eliminated.
- (f) Staff site visits on June 16, 2003.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, Carmel Highlands Fire Protection District, Carmel Hills Fire Protection District and the Monterey County Sheriff’s Department. The respective departments and agencies 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. However, no conditions were found necessary.

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

**EVIDENCE:** (a) Sections 20.86.030.A of the Monterey County Coastal Implementation Plan (Part 1) – Board of Supervisors.  
 (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1) – Coastal Commission. Highway One is the first through public road paralleling the sea. The project is a permitted use in the underlying zone as a conditional use.

### **DECISION**

THEREFORE, it is the decision of the Planning Commission of the County of Monterey that the Negative Declaration be adopted and said application for a Coastal Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Coastal Development Permit and Design Approval for development in the critical viewshed to allow installation of eight (8) emergency call boxes. The call boxes are proposed along Highway 1 at the following locations: 1) Monastery Beach - Post Mile PM 71.1 (adjacent to Assessor's Parcel Number 243-112-006-000); 2) Soberanes Point - PM 65.7 (adjacent to Assessor's Parcel Number 243-211-005-000); 3) Garrapata Creek - PM 63.1 (adjacent to Assessor's Parcel Number 243-211-021-000); 4) Bixby Creek Bridge - PM 59.5; 5) Sandy Flats, south of the Little Sur River - PM 55.7 (adjacent to Assessor's Parcel Number 159-011-008-000); 6) Andrew Molera State Park Entrance - PM 51.2; 7) Big Creek Bridge - PM 28.3; 8) Kirk Creek - PM 19.0 (adjacent to Assessor's Parcel Number 422-021-004-000). All call boxes are located on the east side of the highway except for the call box at Big Creek Bridge. Call box #1 is located in the Carmel Area Land Use Plan and all others are located in the Big Sur Coast Land Use Plan, Coastal Zone. An additional two call boxes are proposed with this project application, one at Pacific Valley USFS Ranger Station - PM 14.6 (adjacent to Assessor's Parcel Number 423-011-003-000) and one at Salmon Creek USFS Station – PM 2.4 (adjacent to Assessor's Parcel Number 424-021-002-000). These call boxes are in U.S. Forest Service lands and are not under county permitting authority. 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 030123) allowing eight (8) call boxes was approved by the **Planning Commission** for the State Highway 1 right-of-way from Post Mile 19.0 to Post Mile 71.1 on **December 10, 2003**. The permit was granted subject to **8** 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. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee of \$25, to be collected by the County, within five (5) calendar days of project approval – prior to filing of the Notice of Determination/De Minimus Impact Finding. This fee shall be paid on or 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 recordation of the tentative map, 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 Department)**
4. 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)**

**Continuous Permit Conditions:**

5. 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)**
6. The subject permit is limited to 5 years from the date of approval. Prior to the expiration date, the applicant shall submit an application and receive approval for a new permit or the related structures shall be removed. The permit shall reevaluate the need, circumstances and design of the project. Included in the application shall be a report summarizing usage at each call box location from the time of installation. If changes are identified that would better meet County goals and policies, changes and new conditions may be imposed. The call boxes may also be replaced with equivalent facilities or moved to another location, if it is determined that it will result in less of an impact, subject to approval by the appropriate authority. If it is agreed that the project is no longer needed due to changes in technology, lack of usage or other circumstances the call boxes shall be removed. **(Planning and Building Inspection)**
7. In the event that other existing structures clustered near the call box at the Bixby Creek Bridge site (PM 59.5) are removed, the call box shall also be removed or relocated to a more appropriate site subject to the approval or necessary permits as determined by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
8. 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)**

**PASSED AND ADOPTED** this 10th day of December, 2003 by the following vote:

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

Original Signed By:

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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.