

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

RESOLUTION NO. 03091

A. P. # 416-011-005-000

**FINDINGS AND DECISION**

In the matter of the application of  
**LOUIS T. & KRISTEN SENA (PLN030174)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit (PLN980353) amendments, located at 3000 Red Wolf Drive, Carmel Highlands area, Coastal Zone, came on regularly for hearing before the Planning Commission on December 10, 2003.

WHEREAS: Said proposal includes:

- 1) Amendments to Combined Development PLN980353 that eliminate the conversion of the existing single-family dwelling into a guesthouse, office and storage space, eliminate the approved barn, and add a new water system; and
- 2) a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat to add a new driveway through an area of maritime chaparral

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 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 allows residential development.

**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 *Carmel Area Land Use Plan*, the *Regulations for Development in Carmel Area 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 *Carmel Area Land Use Plan* which designates this area as appropriate for residential development. Permit application, plans, and materials contained in Project File No. PLN030174.

(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) Amendments to Combined Development Permit (PLN980353) eliminate the conversion of the existing single-family dwelling into a guesthouse, office & storage space, eliminate the approved barn, and add a new water system; and include a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat to add a new 10 foot wide unpaved driveway through an area of maritime chaparral. These amendments allowed in

accordance with Chapters 20.17 (WSC [CZ] Districts) and 20.70 (Coastal Development Permits) of Title 20.

(d) The parcels are zoned Watershed and Scenic Conservation, 40 acres per unit, Design Control District, Coastal Zone (“WSC/40-D [CZ]”). The project, as approved in conjunction with permit application File No. PLN020086, is in compliance with Site Development Standards for Watershed and Scenic Conservation Districts in accordance with Chapter 20.17 of Title 20 (WSC [CZ] Districts).

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

(f) LAND USE ADVISORY COMMITTEE: 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.

(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. PLN030174.

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) Technical reports by outside consultants (to include biologists and an archaeologist) indicate 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 complete list of technical reports can be found under Section IX (References) of the previously adopted Mitigated Negative Declaration and of the newly prepared supplemental Initial Study and Mitigated Negative Declaration, and are included herein by reference. Reports are in Project File Nos. PLN030174 and PLN980353.

(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** – The project is subject to environmental review pursuant to requirements of the California Environmental Quality Act. 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 proposed project is not exempt from environmental review due the potential for significant effects to biological resources and land use policies including its proximity to a scenic highway pursuant to CEQA Guidelines Section 15300.2 (Exceptions).

(b) Potentially adverse environmental effects were identified during staff review of the development application and during site visits in August of 2002 on September 4, 2003.

(c) The PBID prepared a supplemental Initial Study pursuant to CEQA relative only to those new issues raised by the current permit applications (PLN030174 & PLN020086) that were not addressed by the previously adopted Mitigated Negative Declaration associated with Project File No. PLN980353. The new Initial Study identified potentially significant effects relative to maritime chaparral habitat only. Project revisions combined with proposed mitigation measures reduce all potential impacts to insignificant levels. The Initial Study is on file in the office of PBID and is hereby incorporated by reference (File No. PLN030174). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval (Exhibit “C.1”).

(d) A supplemental Mitigation Monitoring and Reporting Program (MMRP) has been prepared in accordance with Monterey County regulations and is designed to ensure compliance with conditions and mitigation measures during project implementation. The Applicant must enter into an “*Agreement to Implement a Mitigation Monitoring and Reporting Program*” as a condition of project approval (Condition 4, Exhibit “C.1”). With approval of the subject permit, original conditions (for PLN980353) 3, 11, 40, 50, & 51 (pertaining to the guesthouse & barn) of the previously adopted MMRP are voided as inapplicable. An amended MMRP is attached (Exhibit “C.1”) that replaces the original version.

(e) Evidence that has been received and considered include:

- i. The application, plans, materials, and technical reports, which are listed under Section IX (References) of the Initial Study (see Exhibit “D”), and which are included herein by reference.
- ii. Staff report that reflect the County’s independent judgment.
- iii. Information and testimony presented during public hearings (as applicable).

(f) The Mitigated Negative Declaration was circulated for public review from October 10, 2003, to November 11, 2003.

(g) The Monterey County Department of Planning and Building Inspection, (located at 2620 First Avenue, Marina, CA, 93933) is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based. Reports are in Project File No. PLN030174.

**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:** 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 will not negative effects on the long-term maintenance of environmentally sensitive habitats.

**EVIDENCE:** (a) Pursuant to Finding & Evidence 3, above, a Mitigated Negative Declaration has been prepared for the project. Mitigation measures 22, 23, & 24, listed in the Mitigation Monitoring and Reporting Program, have been designed to mitigate impacts to insignificant levels in order to avoid negative effects on the long-term maintenance of the environmentally sensitive habitats found at the subject parcels. These mitigations require replanting of appropriate chaparral

species onsite at a three-to-one ratio as well as monitoring for at least 10 years to ensure their success.

(b) Condition 35 of the amended Mitigation Monitoring & Reporting Program (Exhibit “C.1”) requires the applicant to convey Scenic & Conservation Easements to the County of Monterey over all environmentally sensitive areas on the subject parcels. This requirement is consistent with Section 20.145.040.B.7 of the *Regulations for Development in the Carmel Area Land Use Plan*, plus Key Policy 2.3.2 and Policy 2.3.3.6 of the *Carmel Area Land Use Plan*.

(c) Condition 35 of the amended Mitigation Monitoring & Reporting Program (Exhibit “C.1”) also requires that the Scenic & Conservation Easement conveyed to Monterey County shall also cover all areas of the subject parcel with slopes of 30% or greater. This requirement is consistent with the Findings & Evidence, Conditions of Approval, and the previously adopted Mitigation Monitoring & Reporting Program associated with Planning Commission Resolution No. 99055 in order to fulfill Key Policy 4.4.1 of the *Carmel Area Land Use Plan*.

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

### **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 subject to the conditions as shown on the attached conditions matrix.

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

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

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.