

***Before the Planning Commission of the
County of Monterey, State of California***

Resolution No. 04005)
A Resolution Vacating Approval of the Konieczny)
Conditional Use Permit and Adoption of the Mitigated)
Negative Declaration for said Permit Contained in)
Resolution No. 02040, Pursuant to the Superior Court's)
Peremptory Writ of Mandate issued in *Elizabeth L.*)
Howard, et. al., v. County of Monterey, et. al.,)
Superior Court Case No. M 60724)

The Planning Commission of the County of Monterey adopts this resolution with reference to the following facts and circumstances:

A. On July 10, 2002, the Commission adopted Resolution No. 02040 approving a use permit and adopting a mitigated negative declaration for Gerd and Nancy Konieczny's 1,200-square foot agricultural support facility to be used for slaughtering of fallow deer raised on their property and for the processing of deer meat.

B. Thereafter, on August 12, 2002, Petitioners Elizabeth L. Howard, In Defense of Animals, and the Animal Protection Institute, filed a petition for writ of mandate in Superior Court challenging the Commission's approval of the permit based upon a mitigated negative declaration.

C. On June 16, 2003, the Superior Court issued a ruling granting Petitioners' request for a writ of mandate. Judgment was entered and a peremptory writ of mandate issued on October 31, 2003 ordering the Commission to "vacate Resolution 02040, including any permits or entitlements, for the project described in that Resolution, and to vacate any environmental clearance granted in connection therewith." The peremptory writ further ordered that the Commission not "take any further action to approve the project without the preparation, circulation and consideration of a legally adequate environmental review document under CEQA with regard to the disease transmission related to deer babesiosis" and "not to take any further action to approve the project without consideration of a solid waste management plan and septic design." The peremptory writ further provided that whether the environmental review be in the form of an Environmental Impact Report ("EIR") or a Mitigated Negative Declaration shall be within the discretion of the Commission.

D. The peremptory writ required that a return to the writ verifying compliance therewith be filed with the Superior Court within 90 days of the issuance of the writ.

E. This Commission desires to comply fully and promptly with the Superior Court's peremptory writ of mandate.

NOW, THEREFORE, be it resolved as follows:

1. Resolution No. 02040, including the approval of any permits or entitlements for the Konieczny deer slaughterhouse Project described in that Resolution, and the adoption of a mitigated negative declaration prepared for said Project, be and is hereby vacated.

2. This Commission will not take any further action to approve the Project without the preparation, circulation, and consideration of a legally adequate environmental review document under CEQA with regard to the disease transmission related to deer babesiosis and will not take any further action to approve the Project without consideration of a solid waste management plan and septic design.

BE IT FURTHER RESOLVED that a copy of this Resolution be attached to the County of Monterey's Return to the Peremptory Writ and that such a Return be filed with the Superior Court on or before January 29, 2004.

On motion of Commissioner Diehl, seconded by Commissioner Hawkins, the foregoing resolution is adopted this 28th day of January, 2004, by the following vote:

AYES: Errea, Hawkins, Padilla, Sanchez, Diehl, Salazar, Wilmot

NOES: None

ABSENT: Parsons

ABSTAIN: Rochester, Vandever

I, JEFF MAIN, Secretary of the Planning Commission of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Planning Commission duly made and entered on January 28, 2004.

Dated: January 28, 2004

Original Signed By:

JEFF MAIN, Secretary of the Planning
Commission, County of Monterey, State of
California.