

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

RESOLUTION NO. 04008

A. P. # 413-022-010-000

In the matter of the application of
Moss Landing Harbor District (PLN020485)

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 general development plan that includes plans for paved parking, demolition of an existing restaurant, establishing building pads for a future restaurant and interpretive center/commercial building, restrooms, a public wharf with seating and walkway, boat launches and docks, vehicle/pedestrian access improvements, and new landscaping; a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and Design Approval. The project is located in the Moss Landing North Harbor, between Elkhorn Slough and the Elkhorn Yacht Club, west of Highway 1, Moss Landing Community Plan and North County Land Use Plan area, Coastal Zone, came on regularly for hearing before the Planning Commission on February 25, 2004.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

1. FINDING: CONSISTENCY. The Project, as conditioned is consistent with applicable plans and policies of the North County Land Use Plan (LUP), Coastal Implementation Plan, Part 2 (CIP), and the Monterey County Zoning Ordinance, Title 20/Coastal Implementation Plan, Part 1 (CIP), which designates this area as appropriate for visitor serving commercial development.

EVIDENCE: (a) Plans/Regulations. The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- 1) North County Coastal Land Use Plan.
- 2) Moss Landing Community Plan.
- 3) Chapter 20.144 of the Monterey County Coastal Implementation Plan, Part 2.
- 4) Chapter 20.22 of the Monterey County Zoning Ordinance regulations for development in the Visitor Serving Commercial zone including the preparation of General Development Plans and design standards.
- 5) Section 20.22.030 of the Monterey County Zoning Ordinance that establishes General Development Plan requirements.
- 6) Section 20.22.040 of the Monterey County Zoning Ordinance requires a Coastal Development Permit for development within - Public viewshed; and - 100 feet of environmentally sensitive habitat (ESHA).
- 7) Chapter 20.70 of the Monterey County Zoning Ordinance regulations for Coastal Development Permits.

There would be no conflict or inconsistencies with these policies or regulations. Staff notes are provided in Project File PLN020485.

- (b) Land Use Designation. The parcel is zoned Visitor Serving Commercial, Coastal Zone (“VSC (CZ)).” The project is in compliance with the Site Development Standards for the Visitor Serving Commercial District in accordance with Section 20.22.070 (CIP).
- (c) Site Description. The project site is approximately 9.53 acres in size and the zoning designation requires a minimum of 10,000 square feet for parcels in this district. Expansion of visitor serving fishing and retail uses is an allowed use in accordance with Chapter 20.22 (CIP). The Moss Landing Commercial zone authorizes the Planning Commission to consider Coastal Development Permits (Section 20.70.030 CIP) and General Development Plans for lots in excess of one acre or with more than one use on the lot (Section 20.22.030 CIP).
- (d) Environmentally Sensitive Habitat (Section 20.144.040 NC LUP). The project is consistent with policies of the North County Implementation Plan (NC CIP) dealing with environmentally sensitive habitat. The proposed project is located within 100 feet of the Elkhorn Slough and Moss Landing Harbor. A biological survey identified four fields of eelgrass that could be impacted by the proposed project. Proposed improvements include grease and oil interceptors to reduce the runoff of hazardous materials into the harbor and slough. The environmental analysis completed for this project determined that all potential impacts could be reduced/mitigated to a level of insignificance.
- (e) Visual Resources (Section 20.144.030 NC LUP). The site is located west of Highway 1. An on-site inspection by the project planner determined that the existing and proposed buildings are located wholly or partially within a public viewshed as defined by Section 20.144.020.SSS. No new buildings are proposed at this time; however, the project consists of establishing building pads for two replacement buildings of similar size and near the same location. Although the overall site elevation would be increased to avoid flooding damage, proposed parking lot and shoreline improvements would not impact the public view. However, new buildings will extend higher than the existing buildings that are to be demolished. These structures will be subject to separate review for consistency with height and design guidelines for the Moss Landing community (Section 20.144.030.B.2 CIP) when development is proposed.
- (f) Shoreline Structures (Section 20.144.060 NC LUP). The subject site is bordered by the Elkhorn Slough and Moss Landing Harbor on two sides (south and west). The County’s review authority for shoreline structures (riprap, tidal steps, wharf, docks, etc.) is design approval and the Coastal Commission is the permitting authority. The design of the proposed shoreline structures is consistent with the character of the Moss Landing Harbor area to include large boulder riprap, tidal steps, boat ramps, a wharf, and docks.
- (g) Transportation (Section 20.144.120 NC LUP). The project site is bordered on the east by Highway 1 and currently has parking for about 225 vehicles (no paving or striping). This project proposes to consolidate two access points into one existing access. (Section 20.144.030.B.4 CIP). A traffic study was completed to assess potential traffic impacts on Highway 1. County Public Works and Environmental Health Departments have reviewed the project and recommend approval subject to conditions. Sufficient measures such as turning movement improvements and acceleration/deceleration lanes have been included to mitigate traffic impacts along Highway One (Section 20.144.120.B.2 CIP). The proposed project

includes improvements for coastal-dependant, recreational/commercial uses such as boat ramps, docks, and a public wharf (Section 20.144.20.B.3 CIP).

(h) Public Access (Section 20.144.150 NC LUP). See Finding #5.

(i) Moss Landing Community Development Standards (Section 20.144.160 NC LUP). Proposed development must be designed in accordance with the guidelines for the Moss Landing Community Plan (MLCP). Priority for development in the North Harbor is to provide recreational and visitor serving commercial uses (Policy 5.3.3.11 MLCP). Policy 5.3.3.9 MLCP requires on-site parking to be provided. Grease/oil interceptors are proposed from the parking area, which will improve existing conditions for water quality in the harbor (Policy 5.3.3.4 MLCP). Proposed development of recreational boating-support facilities will not jeopardize conservation of sensitive mud flat habitat in the North Harbor (Policy 5.3.3.12 MLCP). Pursuant to Policy 5.3.3.15 MLCP, all significant effects of harbor development have been mitigated to a level of insignificance (See Finding #6). The project is consistent with the Moss Landing Community Development Standards of the North County Land Use Plan. Staff notes are provided in PBI File No. PLN020485.

(j) Design Approval. The applicant has provided the Planning Commission with a Design Approval Request, drawings, and a statement of materials and colors to be used.

(k) Land Use Advisory Committee (LUAC). On April 7, 2003, the North County Coastal Land Use Advisory Committee voted 4-0 to recommend approval of the project as designed. The Committee noted the following comment and recommendation:

(1) Consider a bicycle and pedestrian path from this location to Highway 1 at Moss Landing Road.

(2) Maloney's/Harbor Inn should be considered for emergency demolition.

(l) Historic Resources Review Board (HRRB). Demolition of the Maloney's/Harbor Inn was presented to the HRRB on May 1, 2003. Maloney's Harbor Inn was constructed in 1921 and is the oldest continuously operating restaurant as well as the oldest continuously operating business in Moss Landing. It is tied historically to the era of sardine fisheries in Monterey Bay. Monterey County's Department of Parks and Recreation Primary Record of the Harbor Inn noted the significance of the building as a social center of Moss Landing, dating back to the 1930's. The California Department of State Parks and Recreation describes Maloney's Harbor Inn as "...eligible for listing on the California Register of Historical Resources, under Criterion 1, and possibly National Register of Historic Places, under Criterion A." The HRRB unanimously voted for the Harbor District to include a historical assessment in the environmental document. HRRB staff was directed to provide recommended mitigation measures. Although the existing structure cannot be moved or rehabilitated, the desire is to retain as much of the heritage established with this building as possible.

(m) Site Visit. Project planner conducted on-site inspections on June 25, 2003 and January 5, 2004 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in Project File PLN020485.

(n) Application Materials. 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 PLN020485.

(o) Testimony. No testimony, either written or oral was received during the course of the public hearing process to indicate that there is any inconsistency with these plans or policies.

2. **FINDING: NO VIOLATION.** 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.

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, Public Works, Water Resources Agency, and Department of Environmental Health. The respective departments and agencies have 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

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

EVIDENCE: (a) The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, North County Fire District, Parks Department, and Environmental Health Division. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated to the project conditions.

(b) Staff conducted on-site visits on June 25, 2003 and January 5, 2004 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

5. **FINDING: WATER IMPACT/NORTH COUNTY:** There presently exists in the North Monterey County area a serious overdraft in the aquifers, together with seawater intrusion problems in the North County Coastal Zone and nitrate pollution problems throughout the area. The North County Land Use Plan, Coastal Implementation Plan, and Area Plan recognize the existence of these problems and direct that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

EVIDENCE: (a) There is no creation or expansion of water demanding uses at this time. Consideration of new uses that demand water will be required to provide proof of a long-term water supply

for review and consideration of the County.

(b) Materials in project file PLN020485/Moss Landing Harbor District.

6. FINDING: CEQA/MITIGATED NEGATIVE DECLARATION: 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 County as the decision-making body of a Responsible Agency hereby certifies that it reviewed and considered the information contained in the Lead Agency's (Harbor District's) Mitigated Negative Declaration and Mitigation Monitoring Program prior to acting upon or approving the project.

EVIDENCE: (a) Environmental Assessment/Initial Study/Mitigated Negative Declaration (EA/IS/MND). The following documents are on file in the office of Planning and Building Inspection and are hereby incorporated by reference (PLN020485/Moss Landing Harbor District):

(1) On February 25, 2002, Harding Engineering and Environmental Services completed an EA/IS/MND for the Moss Landing Harbor District prepared pursuant to the National Environmental Protection Act (NEPA) and the Californian Environmental Quality Act (CEQA). This EA/IS identified potentially significant impacts relative to biological resources, traffic, water quality, geology, and air quality. However, proposed mitigation measures were adopted that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. A Mitigated Negative Declaration was filed with the State Clearinghouse on July 5, 2002, noticed for public review, and circulated for a 30-day review period (SCH#: 2002021118). On June 22, 2002, the Moss Landing Harbor District considered the document and related comments and adopted the "North Harbor Shoreline Protection Project Mitigated Finding of No Significant Impact/Mitigated Negative Declaration" (Resolution 02-08).

(2) On July 14, 2003, Blasland, Bouck and Lee, Incorporated completed an amendment to the EA/IS/MND (SCH#: 2000041031) for the Moss Landing Harbor District pursuant to NEPA and CEQA. This amendment was focused at addressing potential impacts for demolishing a historical building within the project area. The Initial Study provides substantial evidence that the project, with the addition of mitigation measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the State Clearinghouse on August 4, 2003, noticed for public review, and circulated for a 30-day review period (SCH#: 2002021118). On September 18, 2003, the Moss Landing Harbor District considered the document and related comments and adopted the "Amendment to the Environmental Assessment/Initial Study for the North Harbor Shoreline Protection Project" (Resolution 03-27).

(b) Technical Documents. The evidence in the record includes studies, data, and reports supporting the EA/IS/MND; additional documentation requested by staff; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials;

and expert testimony. The following data and reports were analyzed as part of the environmental determination in addition to the environmental documents identified in subsection (a) above:

1. Moss Landing North Harbor Draft Transportation Impact Analysis. Prepared by Hexagon Transportation Consultants, Inc August 30, 1999.
2. Letter from Harding Lawson Engineering Consulting Services to County of Monterey Planning Department regarding Review of Traffic Impact Analysis. Prepared July 24, 1998
3. Mitigation Monitoring and Reporting Plan for Eelgrass Beds. Prepared by Harding ESE, dated February 5, 2001.
4. Marine Habitats and Bathymetry around Skipper's Restaurant and the North Harbor Visitor Serving Area. Prepared by ABA Consultants. Dated September 1998.
5. Geotechnical and Coastal Engineering Study for Shorefront Improvements Moss Landing North Harbor. Prepared by Haro, Kasunich, and Associates, Inc. June 1998.

The Planning Commission hereby certifies the Mitigated Negative Declaration and Mitigation Monitoring Program adopted and amended by the Moss Landing Harbor District for the North Harbor Shoreline Project. This finding determines that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance.

Mitigation Monitoring Program.

(a) A Mitigation Monitoring Program was adopted by the Moss Landing Harbor District to ensure compliance during project implementation. The District, as Lead Agency, will be responsible to implement this program. As a Responsible Permitting Agency, the County has conditioned the project whereas the District must provide evidence that these measures are implemented and have the intended effect.

(b) The permitting authority of Monterey County is limited to the General Development Plan, parking lot improvements, and Design Approval of shoreline structures. There are no changes in the project or unusual circumstances that exist that would necessitate additional environmental review by the County of Monterey.

7. 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). The proposed project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976 and Section 20.144.150 of the North County Coastal Land Use Plan and Coastal Implementation Plan.

EVIDENCE: (a) The site is located seaward of the first public road. There has been historical public access to, and along, the water edge.

- (b) The Shoreline Access/Trails Map illustrated in Figure 6 of the North County Coastal Land Use Plan indicates a Bicentennial Bicycle Route along Highway 1 east of the project site.
- (c) Initial plans show a proposed pedestrian trail along the water edge/wharf areas. Although a recent Coastal Trail Plan shows a 10-foot wide trail within the Highway 1 right of way, there would still be pedestrian access through the parking lot and along the shoreline using the tidal steps and wharf.
- (d) Staff site visits on June 25, 2003 and January 5, 2004.

8. FINDING: APPEALABILITY. The project may be appealed to the Board of Supervisors and California Coastal Commission.

- EVIDENCE:**
- (a) Section 20.86.030 of the Monterey County Zoning Ordinance (Board of Supervisors).
 - (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Coastal Commission).
 - (1) The project site is located between the sea and the first public road parallel to the sea.

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. The Combined Development Permit (PLN020485/Moss Landing Harbor District) consisting of: a General Development Plan that includes plans for paved parking, demolition of an existing building, establish building pads for a future restaurant and interpretive center/commercial building, restrooms, a public wharf with seating and walkway, boat launches, vehicle and pedestrian access improvements, transient docks, public coastal trail, relocate the driveway, and new landscaping; a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and Design Approval. The project is in accordance with County ordinances and land use regulations, and 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)**

Prior to Issuance of a Building and/or Grading Permit

2. The applicant shall record a notice that states: "A Permit (Resolution # 04008) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 413-022-003, 005, and 010-000 on February 25, 2004. The permit was granted subject to 21 conditions of approval that 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. The applicant shall submit three copies of an exterior lighting plan that addresses the following:
 - a. Indicate the location, type, and wattage of all light fixtures including catalog sheets for each fixture for review and approval of the Director of Planning and Building Inspection.
 - b. 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.
 - c. Provide adequate security lighting along any pathways and in parking lot areas. These areas should be illuminated from dusk until dawn.
 - d. Lighting shall be designed and/or screened (e.g. landscape) to not create a nuisance, disturb any nearby resident, or disrupt nighttime views from public areas.

(Planning and Building Inspection)

4. The Final General Development Plan shall be attached/copied onto the Final Site Plan. **(Planning and Building Inspection)**
5. The applicant shall copy erosion control measures onto the building plans for review and approval of the Planning and Building Inspection Department. The applicant shall also submit a program for how these measures will be implemented during construction activities:
 - a. Water all active construction areas for dust control. Frequency should be based on the type of operation, soil condition, and wind exposure.
 - b. Cover stockpiles of debris, soil, sand or other materials that may be blown by the wind.
 - c. Sweep adjacent streets of all mud and dust daily or as needed.
 - d. Landscape or cover completed portions of the site as soon as construction is complete in that area.

(Planning and Building Inspection)

6. Owner shall record a notice, for each parcel, stating that “the property is located within or partially within a floodplain and may be subject to building and/or land use restrictions.” A copy of the recorded notice shall be provided to the County Water Resources Agency. **(Water Resources Agency, S.C.)**
7. A drainage plan shall be prepared by a registered civil engineer addressing on-site and off-site impacts that includes routing stormwater runoff from the paved parking areas to an oil-grease/water. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
8. Lowest floor and attendant utilities, for the reconstructed buildings, shall be constructed at least five (5) feet above mean sea level (NGVD 1929). To provide for the flood proofing and certification of the lowest floor elevation, a reference marker set to the elevation of the lowest floor shall be established at the building site by a

licensed land surveyor prior to start of construction. An elevation certificate for the finished floor shall be completed, for each building, by a registered civil engineer or licensed surveyor and provided to the County Water Resources Agency prior to the inspection and approval of the building foundation by the building inspector. **(Water Resources Agency)**

9. Applicant shall provide certification to the County Water Resources Agency that applications have been submitted for all required local, State and Federal permits. **(Water Resources Agency, S.C.)**
10. The applicant shall provide to the Water Resources Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed increase in water use shall require the identification and implementation of mitigation measures, if feasible, by the applicant. **(Water Resources Agency, S.C.)**
11. Submit plans to the Department of Public Works for approval and construct all necessary sewer improvements. **(Public Works)**
12. Obtain a sewer connection permit from the Department of Public Works and pay all applicable fees. **(Public Works)**
13. The applicant shall obtain an encroachment permit from the Department of Transportation District 5 to construct access improvements on Route 1, including but not limited to the consolidation of all project access into the main entrance (and closing the other two secondary entrances), widening the main entrance, providing acceleration and deceleration lanes (or right turn channelization) on southbound Route 1 at the main entrance, and providing left turn and median acceleration lanes on northbound Route 1 at the main entrance. Any work or improvements proposed within the Route 1 right of way (e.g.; temporary parking spaces, landscaping (planters), and a coastal trail) will be subject to the Department's standards and requirements. **(Public Works)**

During Grading/Construction

14. The applicant and inspectors shall monitor the site for cultural materials in the soils. 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 150 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)**

Prior to Final Inspection and/or Occupancy

15. All new utility and distribution lines shall be placed underground. **(Planning and Building Inspection)**

16. The applicant shall provide evidence to the Director of Planning and Building Inspection that the following mitigation measures have been implemented as required by the Mitigated Negative Declaration adopted for this project, as amended:
- a. The following design features are included as part of the project:
 - Shoreline improvements will not be visible from Highway 1 and will thus preserve the scenic quality of the highway.
 - The project includes public access improvement such as a promenade along the shoreline that will enhance access to the harbor's edge and tidal steps providing access to the beach area. The promenade will allow visitors and local residents to view the harbor from the areas that are currently not conducive to scenic views. The steps will provide easy public access to the beach area.
 - Project grading and filling will not impact the existing visual character of the site. Fill activities are designed to alleviate the potential for erosion and flooding, and due to their height relative to the surrounding landscape, will be imperceptible when compared with existing conditions.
 - b. Employees working at the site shall be encouraged to carpool to the site.
 - c. Water trucks shall be used to water the proposed project site as well as all roads leading into the construction site to control fugitive dust during excavation of the sediment mixing and drying site, as needed.
 - d. Speed of construction vehicles shall be limited to 10 miles per hour in order to reduce generation of dust.
 - e. Monitoring of eelgrass will be conducted before, during, and after construction to assure that piers will be placed shoreward of the eelgrass beds. The contractor will be notified of this design requirement prior to conducting work. Monitoring will also be conducted during and after placement of the piers to verify correct placement. A mitigation Monitoring and Reporting Plan (dated February 5, 2001) has been prepared to assure minimal effect on biological resources.
 - f. If cultural resources are discovered during construction, construction shall be stopped until a qualified archaeologist is consulted and appropriate measures are taken to protect those resources.
 - g. Structures built for the project will be constructed per seismic requirements specified in the Uniform Building Code. Structures will be designed to withstand the projected maximum creditable earthquake event of 7.9 magnitude on the Richter scale.
 - h. The proposed parking lot will be designed according to specifications contained in the site-specific geotechnical report prepared by Haro, Kasunich, and Associates.
 - i. The project will incorporate recommendations contained in the geotechnical report prepared for the site including: in-situ densification (e.g.; grouting) of liquefiable materials; embedding foundations below liquefiable soil layers; building structures on a compacted earthen mat surface; and, design of the seawall to withstand displacement and settlement of up to ten inches.
 - j. All construction plans will be reviewed by the project geotechnical engineer to determine if geotechnical recommendations have been incorporated during construction.
 - k. During construction, periodic inspections will be completed by the geotechnical engineer to monitor the implementation of geotechnical recommendations into project construction.
 - l. A geotechnical engineer will periodically inspect the site during seawall construction/rip-rap placement to ensure that geotechnical recommendations are implemented to reduce potential coastal erosion impacts.

- m. Project design includes placement of fill in the unimproved lot to raise the lot above the FEMA 100-year base flood elevation.
- n. Turbidity of surrounding harbors will be monitored to ensure that turbidity remains below required levels.
- o. The project includes improvements to the existing drainage system on-site, including the addition of two oil/water and sediment traps, to ensure that storm water runoff from the parking lot and the rest of the project does not adversely water quality in the surrounding harbor.
- p. Equipment operation on-site shall be limited to the hours of 7:00 a.m. to 5:00 p.m.
- q. All equipment shall be equipped with mufflers that are in good condition.
- r. No more than five pieces of equipment (such as scraper, loader, water truck, etc.) shall be operating at the same time at the closest point to any receptor.
- s. Construction truck traffic entering and exiting the site shall be limited to operation between 7:00 a.m. and 4:00 p.m. weekdays to avoid exacerbating LOS levels during the peak pm hour (4:30-5:30 p.m.).
- t. A plaque will be erected on or adjacent to the new structure that will include a description (written and/or sketch) of the original structure and describe the historical significance of the Harbor Inn.
- u. The new structure will be of similar architectural style to the original building and other buildings within the Moss Landing Harbor. In other words, the architecture shall be consistent with existing design and material features within the harbor complex (e.g., consistent with a commercial working harbor). The orientation to the water will be maintained and the building will continue to be used to house a restaurant.

(Planning and Building Inspection)

- 17. The site shall be landscaped. At least three weeks prior to final approval, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping. The landscaping shall be installed and inspected prior to occupancy. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection Department)**
- 18. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, 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.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. **(Water Resources Agency, S.C.)**

19. The parking shall meet the standards of the Zoning Ordinance and be approved by the Director of Public Works and the Director of Planning and Building Inspection. **(Public Works)**

Continuous Permit Conditions:

20. The site shall be landscaped. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the North County Implementation Plan Development Regulations is available in brochure form (*Suggested Native Species Landscaping List - North County Coastal Zone*) from the Planning and Building Inspection Department. **(Planning and Building Inspection)**
21. All landscaped areas shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection Department)**

PASSED AND ADOPTED this 25th day of February, 2004, by the following vote:

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

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.