

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

RESOLUTION NO. 04023

A. P. # 420-201-009-000

In the matter of the application of
CALTRANS (PLN020394)

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 Development Permit and Design Approval for the installation of 6,000 square feet (80 feet wide) of suspended wire mesh rockfall netting on cliffs adjacent to Highway 1 and within the critical viewshed; Coastal Development Permit for development on slopes over 30%. The property is located at Postmile 40.9 Highway 1, Big Sur, adjacent to and on the east side of Highway 1 at Lafler Canyon, Big Sur area, Coastal Zone, came on regularly for hearing before the Planning Commission on June 9, 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, the Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), 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 Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), and 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 Big Sur Coast Land Use Plan, which designate this area as appropriate for public/quasi-public development. Staff notes are provided in Project File PLN020394.

(b) Site Visit. Project planner conducted an on-site inspection on September 25, 2002, July 29, 2003, and October 9, 2003 to verify that the project in the subject locations conforms to the plans listed above.

(c) Land Use. The project for rockfall protection devices within the Highway 1 right-of-way is a conditional use as a public/quasi-public use, in accordance with Section 20.40.050 CIP.

(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) Land Use Advisory Committee (LUAC): The Old Faithful project was reviewed by the joint Big Sur Coast/South Coast Land Use Advisory Committees (LUAC) on August 12, 2003. The joint Big Sur Coast/South Coast LUAC recommended approval of the project by a vote of 10-0 with a comment regarding the durability of the powder

coating and noting a positive response to the color. The coating is designed to modern industry standards to withstand exposure and outdoor conditions and has an estimated lifetime of 20 years.

(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 PLN020394.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, California Department of Forestry, and the Monterey County Sheriff's Department. Conditions recommended have been incorporated.

(b) Technical reports by CalTrans geology, archaeology and biology staff indicates 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. Agency staff concurs. Reports are in Project File PLN020394.

(c) Staff conducted an on-site visit on September 25, 2002, July 29, 2003, and October 9, 2003 to verify that the site is suitable for this use.

(d) No public facilities are necessary for the project.

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. The Initial Study is on file in the offices of the Planning and Building Inspection Department and is hereby incorporated by reference. (PLN020394).

(b) Evidence that has been received and considered includes:

- The application and materials
- Cultural Resources review by Kelda Wilson dated March 14, 2002.
- Biological Resources Review by Tom Edell dated March 14, 2002. Memos regarding biological review by Tom Edell (June 16, 2003).
- Preliminary Geotechnical Report for Old Faithful by John Duffy dated March 17, 2003.
- Staff site visit on September 25, 2002, July 29, 2003, and October 9, 2003.
- Staff reports that reflect the County's independent judgment

(c) These reports are on file in the offices of PBI (File Reference No. PLN020394) and are incorporated by reference herein.

(d) Potential visual impacts have been minimized by using the minimum of netting necessary, coloring the proposed netting and components and any additional netting to match the background rock. A condition has been incorporated requiring notification to

the County in the event that netting must be replaced or repaired and colors to match the rock.

(e) Potential biological impacts to Seacliff buckwheat, which is host plant to the Federally Endangered Smith's blue butterfly, have been minimized. No buckwheat plants will be removed as a result of the project and those in the vicinity of the project area will be flagged for avoidance and access to the site limited to designated paths on either side of the Old Faithful site. A condition has been incorporated requiring verification of these measures. The site is unstable and not suitable habitat most wildlife or plant life and no sensitive species have been identified.

(f) A mitigated negative declaration was circulated for public review from December 2, 2003 to December 31, 2003. The County received comments from the applicant and after discussions revised the document. Staff determined that the project as designed had reduced potential impacts to a less than significant level. The negative declaration was prepared and recirculated for public review between April 19, 2004 and May 18, 2004. No comments were received.

- 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: (a) 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 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. It improves access by increasing highway reliability and safety.

(c) Staff site visit on September 25, 2002, July 29, 2003, and October 9, 2003.

- 6. FINDING: SCENIC RESOURCES:** The subject project is consistent with Visual Resource Policies of the Big Sur Coast 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. The project has minimized visibility by limiting the area covered by netting; using netting color that is non-reflective and matches the background rock and choosing an alternative that is the less visually intrusive, while still meeting project requirements. The placement of new netting that

would expand the area covered or the substantial replacement of netting is subject to additional permits and ensures that changed circumstances, conditions or technology can be taken into account this event. Substantial replacement is defined as replacing 20% or more of the permitted netting. The project as designed and conditioned is consistent with the policy.

(b) Initial Study (Negative Declaration) prepared for the projects and located in Project File PLN020394.

(c) Application and materials in Project File PLN020394.

(d) Staff site visits on September 25, 2002, July 29, 2003, and October 9, 2003.

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) The project was reviewed by Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, California Department of Forestry and the Monterey County Sheriff's Department. The respective departments and agencies recommend 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.

8. **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). Development that is permitted as a conditional use is appealable to the Coastal Commission. The development located in the critical viewshed is a conditional use.

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 attached conditions.

PASSED AND ADOPTED this 9th day of June 2004, by the following vote:

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

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.