

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

RESOLUTION NO. 04031

A. P. # 420-201-012-000

In the matter of the application of  
**Owings/Wild Bird LLC (PLN010266)**

**FINDINGS & DECISION**

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of (1) a Coastal Development Permit for demolition of a workshop (124 square feet), a caretaker's unit (279 square feet), and a garage (503 square feet); (2) a Coastal Administrative Permit for a new lower level (renovating existing 655 square foot area), an addition to the main residence (229 square foot), an addition of an upper level (483 square foot), a workshop (443 square foot), a caretaker's unit (549 square foot), and a garage (517 square foot); (4) a Coastal Development Permit for development adjacent to an environmentally sensitive habitat; and (5) a Coastal Development Permit for development on 30% slopes (septic pump line) and within a critical viewshed area. The Coastal Development Permits include renovation and repairs to an existing driveway, terrace, water system, septic system, the replacement of one Monterey cypress planted at the site (8 inches in diameter at breast height) with three 5 gallon Monterey cypress, and Design Approval for the net addition of 1,315 square feet to the existing 3,404 square feet. The project is located between Highway 1 and the Pacific Ocean at Grimes Point, near Mile Post #40, Big Sur area, Coastal Zone, came on regularly for hearing before the Planning Commission on June 30, 2004.

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

- 1. FINDING:** The project proposed in this application is a Combined Development Permit (PLN010266) for additions to a single family home and demolition and replacement of accessory structures and a septic system located between Highway One and the Pacific Ocean at Grimes Point (Assessor's Parcel Number 420-201-012-000), near Mile Post #40, BIG SUR AREA, COASTAL ZONE. The permit includes renovation and repairs to an existing driveway, terrace, water system, septic system, and a 3:1 replacement of one, previously planted, Monterey Cypress. A detailed description of the project is found in condition #1 and as conditioned, conforms to the plans, policies, requirements, and standards of the following documents:
- a) the certified Big Sur Coast Land Use Plan;
  - b) the certified Monterey County Coastal Implementation Plan, Part 1, regulations for the "WSC/40" Coastal Zone District, and
  - c) The Monterey County Coastal Implementation Plan, Regulations for Development in the Big Sur Coast Land Use Plan. (Chapter 20, Section 20.17.060)

**EVIDENCE:** The project is a conditional use with Coastal Development Permits based on Chapter 20.17 of the Coastal Implementation Plan, development in Watershed and Scenic Conservation Residential Zoning Districts. The use is conditional because of the following:

- The proposed excavation of slopes exceeding 30% based on Section 20.64.230 E. 2 of Title 20 is justified in order to accommodate a new septic system with increased capacity.
- Development within the Critical Viewshed as defined by Section 20.145.020. V of the Big Sur Coastal Implementation Plan.
- Ridgeline development pursuant to Section 20.66.010 of the Big Sur Coastal Implementation Plan.
- Development within 100 feet of an environmentally sensitive habitat based on Section 20.145.040 of the Big Sur Coastal Implementation Plan.

**EVIDENCE:** Planning and Building Inspection Department staff have reviewed the project as contained in the application and accompanying materials and have determined that the project is consistent with the above listed plans and is appropriate for residential development in an area designated for Watershed and Scenic Conservation Residential Districts (“WSC/40”), and is in conformity with the following development standards:

***Development standards for projects within the Big Sur Critical Viewshed:***

- Big Sur Coast Land Use Plan: Chapter 3.2, Scenic Resources (with special attention on policies for development of land within the critical viewshed, Section 3.2.3 A. 7.)
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.030, with special attention to Section 20.145.030. A. 1. b. and A. 2. f.

***Development standards for development adjacent to environmentally sensitive habitats:***

- Monterey County General Plan: Chapter I, Goals 7 and 9 with attending Objectives and Policies.
- Big Sur Coast Land Use Plan: Chapter 3.3, Environmentally Sensitive Habitats with special attention to Sections 3.3.2., Policies 1 through 7 and 9; Section 3.3.3., A., Specific Policy for Terrestrial Plants, and Section 3.3 3, B., Policies 1 and 4, Specific Policies for Marine Habitats.
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.040, A., “Biological Survey Requirement”; Section 20.145.040 B., items 1 through 4, and 9, “General Development Standards;” Section 20.145.040 C. 2, items a through d and g, “Marine Habitats.”
- Coastal Implementation Plan, Part 6, Appendix 2b, Big Sur Resource Maps.

***Development standards for development within 50 feet of the face of a cliff or bluff or within the area of a 20 degree angle above horizontal from the face of a cliff:***

- Big Sur Coast Land Use Plan: Chapter 3.7, Key Policy 3.7.1, and General Policies 3.7.2, with special attention to Specific Policy 3.7.3 A., “Geologic Hazards,” and 3.7.3 C. “Fire Hazard.”
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.080 A b 2 and A i, “Geologic Report Requirement.”

***Development standards for development in an area with high archaeological resources:***

- Big Sur Coastal Implementation Plan, Part 6, Appendix 2b, “Big Sur Resource Maps.”
- Big Sur Coast Land Use Plan: Chapter 3.11, with special attention to General Policies 3.11.2, items 1 through 6.
- Big Sur Coastal Implementation Plan, Part 3: Section 20.145.120, “Archaeological Resources Development Standards,” with special attention to Section 20.145.120 B., “Archaeological Survey Report Requirement,” and Section 20.145.120 D., “Development Standards.”

**EVIDENCE:** Necessary public facilities are available to the project site.

a) The property has a “License for Diversion and Use of Water,” Permit #10576, License #5818 from the State Water Rights Board. Water is pumped up to an approximate 600-gallon water tank located at the highest point on the property. Water is then gravity fed down to the residence. Tests were made on the water quality in August 2000. The water sample meets state health standards for nitrate, dissolved solids, and color. Traces of bacteria were found, and a water purification system is proposed. A chlorinator system will be designed and added to the water system to bring water up to acceptable standards. The existing wood tank will be replaced with a new Poly Tank.

b) The County’s Environmental Health Division requested pertinent geotechnical studies pursuant to Monterey County Code 15.20.070 F. 13. for a small portion of an upgraded septic system to be placed on 30% slopes. A variance from the Regional Water Quality Control Board for re-routing the septic system on 30% slopes near a marine environment has been accepted and approved by the Environmental Health Division. The current septic system consists of a Septic Tank located 20’ down slope, southeast of the main residence. This is connected to a leach field running parallel to the slope. This has been inspected in early 2000 and was determined to be in good condition, but cannot accommodate additional waste and access is very difficult for maintenance. The proposed design removes some fixtures and adds new fixtures with similar uses. The renovation will also upgrade toilets and showers to “low flow.” The existing Septic Tank will be converted to a Pump Vault to accept waste from the Main Residence and Guest House. This waste will be pumped up to a new 2,500 gallon Septic Tank located in the drive turnaround area. Waste from the Caretaker House will be gravity fed into this same tank. A new Pump Vault will be adjacent and will pump the effluent up a new pump line under the driveway. New leach fields will be located on the property near Highway One to handle the effluent pumped up from below. Percolation tests have been completed and the new system designed to meet Environmental Health Division standards.

c) PG&E service is available to the site from a Highway One utility easement. All public utilities serving the site are required to be placed underground to avoid any adverse visual impact within the Big Sur Critical Viewshed.

2. **FINDING:** The proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development adjacent to environmentally sensitive habitats. The Biological Report prepared for the site by consulting biologist, EMC Planning Group,

Inc., concludes that the proposed project will result in no adverse impacts to special-status species.

**EVIDENCE:** The Biological Report dated June 2002, 1999, prepared for the site by consulting biologist EMC Planning Group, Inc., Biological Resources Assessment, Wild Bird (Highway 1 at Grimes Point, APN 420-201-012), pursuant to requirements of the Big Sur Coastal Implementation Plan, Part 3: Section 20.145.040, A., “Biological Survey Requirement;” Section 120.145.040 B., items 1 through 4, and 9, “General Development Standards;” Section 120.145.040 C. 2, items a through d and g, “Marine Habitats.”

**EVIDENCE:** The predominant habitat on the property is coastal scrub. The portion of the property on which development is proposed consists of a limited area of redwood/mixed evergreen forest, but with ornamental landscaping the primary vegetative feature within the existing development envelope. The redwood/mixed evergreen forest habitat provides many wildlife resources. Because of these potential habitats in areas outside of the building envelope and on the steep slopes surrounding the developed area, the consulting biologist recommends certain mitigations that are listed as part of the Condition Compliance and Mitigation Monitoring Reporting Program: namely, the preparation of erosion control and landscaping plans that are not intrusive or invasive of the native plant community.

**EVIDENCE:** The geotechnical investigation report by Soils Surveys, Inc. [Richard E. Dante, P.E. of Soil Surveys, Inc. Geotechnical Investigation for Wild Bird, LLC; Wild Bird Property at Grimes Point, Highway One, Big Sur Area, California, June 20, 2002] addresses specifications for surface drainage at the site. Both Geologist and Geotechnical consultants will be retained to review the building and site grading plans and make site inspections to assure adequate stormwater drainage and erosion control measures that are consistent also with protection of the native plant community.

**EVIDENCE:** Project mitigations include a Scenic and Conservation Easement over the entire property surrounding the building area on the bluff pursuant to Section 20.145.040 B. 2 of the Monterey County Coastal Implementation Plan, Part 3.

**EVIDENCE:** A mitigation to protect the marine environment is the pumping of septic waste to a new 2,500 gallon Septic Tank located in the drive turnaround area rather than flowing seaward toward the marine habitat. Waste from the Caretaker House will be gravity fed into this same tank. A new Pump Vault will be adjacent and will pump the effluent up a new pump line under the driveway. New leach fields will be located on the property near Highway One to handle the effluent pumped up from below 40 feet up-slope that will receive effluent pumped up from septic holding tanks at the project site.

**EVIDENCE:** Coastal Implementation Plan, Part 6, Appendix 2b.

3. **FINDING:** The project, as conditioned, is consistent with applicable plans and policies for development within 50 feet of the face of a cliff or bluff and within the area of a 20 degree angle above horizontal from the face of a cliff as found in the Big Sur Coast Land

Use Plan; the Big Sur Coastal Implementation Plan, Part 3 and Part 6, and Title 20, Part 1, Zoning Ordinance.

**EVIDENCE:** Technical reports have been provided by the following soils, geology, and geotechnical consultants to address the potential geologic hazards at the site:

- CapRock Geology, Inc., Geological Report for Wild Bird Residence, Grimes Point, Big Sur, Monterey County, California, APN #420-201-012, June 12, 2002, Ref No.: 4241-01. The Geologic Report identifies seismic shaking and slope instability as potential hazards, requiring engineered foundations, the presence of a geologist during additional subsurface investigation, and a well-designed drainage system that channels runoff downhill to only bedrock or beach sand.

- Richard E. Dante, P.E. of Soil Surveys, Inc. Geotechnical Investigation for Wild Bird, LLC; Wild Bird Property at Grimes Point, Highway One, Big Sur Area, California, June 20, 2002. The Geotechnical Report provides site-specific mitigations to reduce the potential hazards related to erosion.

These reports are found in project file (PLN010266), as attachments to the Initial Environmental Study prepared for the project, and have been circulated through the State Clearinghouse for interagency review.

**EVIDENCE:** The above reports are consistent with policies of the Big Sur Area Land Use Plan dealing with development in hazardous areas. The geologic report prepared for the site by CapRock Geology, Inc. conforms also with "Guidelines for Geologic/Seismic Reports" of the California Divisions of Mines and Geology. The report concludes that the proposed project can proceed with conditions. Both the Geologist and Geotechnical consultants will be retained to review the building and site grading plans and make site inspections to assure adequate stormwater drainage and erosion control measures.

**EVIDENCE:** Coastal Implementation Plan, Part 6, Appendix 2b.

- 4. FINDING:** The request for proposed development on 30 percent slopes is consistent with Section 20.64.230 E. 1 of Part 1 of the Coastal Implementation Plan since no other alternative exists which would allow development to occur on slopes of less than 30 percent.

**EVIDENCE:** The placement of a small portion of the septic system pump pipes on 30 percent slope at the western, seaward edge is necessary in order to maintain an adequate distance between the structures at the site.

**EVIDENCE:** The County's Environmental Health Division requested and approved geotechnical studies pursuant to Monterey County Code 15.20.070 F. 13. for a small portion of an upgraded septic system to be placed on 30% slopes. A variance from the Regional Water Quality Control Board for re-routing the septic system on 30% slopes near a marine environment has been accepted and approved by the Health Division.

5. **FINDING:** The project as proposed is consistent with policies of the Big Sur Area Land Use Plan dealing with visual resources and will have no significant impact on the public viewshed as conditioned.

**EVIDENCE:** The visual impact of the project was reviewed based on Section 3.2.3 A.7. of the Big Sur Coast Land Use Plan and Section 20.145.030. A.2.f of the Big Sur Coastal Implementation Plan, Part 3:

“...Replacement or enlargement of existing structures...within the critical viewshed shall be permitted on the original location on the site, provided no other less visible portion of the site is acceptable to the property owner, and provided the replacement or enlargement does not increase the visibility of the structure. Replacement or enlargement of structures outside the critical viewshed shall be permitted as long as such replacement or enlargement does not cause the structure to intrude into the critical viewshed.”

The proposed second story addition is placed atop an existing ground level residence shared by the A-frame and partially overlaps the view of the A-frame from Highway turnouts south of the site. Therefore, the *visibility* of the structural enlargement does not increase the volume or mass of the existing A-frame because it does not increase the existing silhouette of the A-frame already in the viewshed. The enlargement is no more visible than the existing A-frame.

Further, the existing Caretaker's Unit atop the garage will be demolished, removing the structure from the critical viewshed. The Caretaker's Unit will be replaced by a structure at ground level, attached to the garage outside of the critical viewshed. The Caretaker's Unit replacement will be screened by native vegetation at the south elevation.

The existing workshop/studio to be demolished and replaced by a Guesthouse at the same location is outside of the critical viewshed, screened by the redwood/mixed evergreen forest. The Guesthouse at the same studio location seaward or westerly of the main residence, does not intrude into the critical viewshed as seen from north or south vantage points on Highway One.

**EVIDENCE:** During review of an originally proposed Caretaker Unit location, the cantilevered south elevation was largely removed and setback from the Critical Viewshed as seen from a Highway One turnout south of the site pursuant to Section 20.145.030 A. 2. c. and f. of the Big Sur Coastal Implementation Plan, Part 3. Nonetheless, a condition requiring native re-vegetation of the cliff side will be required at this southern elevation to assure visual screening of the Caretaker Unit should any of the natural vegetation now screening the site be removed during construction.

**EVIDENCE:** A Scenic and Conservation Easement shall be placed over portions of the property in the Critical Viewshed surrounding the approved building envelopes and driveway access pursuant to Section 20.145.030 A. 2. G of the Big Sur Coastal Implementation Plan, Part 3.

**EVIDENCE:** The Big Sur Land Use Advisory Committee (“LUAC”) voted on October 8, 2002, to approve the project by a vote of 5 - 0 and 1 abstention, and with the recommendation that removal of the Workshop/Studio be approved by the County’s Historical Resources Review Board (“HRRB”). Because the applicant objected to HRRB review based on the absence of the structures on any local, state, or national historic register listing, the project was not presented to the HRRB for review. The structures were submitted to historic assessment by a professional architectural historian, Sheila McElroy, who found the Workshop/Studio without architectural merit and nearly uninhabitable because of toxic building materials. This was confirmed by reputed statements from Margaret Owings, the former builder and owner of the studio, who came to dislike the structure.

**EVIDENCE:** Project planner conducted an on-site inspection on three occasions pursuant to Section 20.145.030, A. 1. a. of the Monterey County Coastal Implementation Plan to verify that the project on the subject parcel conforms to the Big Sur Land Use Plan, Section 3.2.3, development in the Big Sur Critical Viewshed. Based on Section 20.145.030, A. 1.b., exterior light sources, both artificial and reflective, shall be prohibited from additions to the existing residences that could be directly visible from Highway One. The use of natural wood and stone materials are proposed for the rehabilitation and additions to the existing structures.

6. **FINDING:** Project as sited and proposed does not interfere with any form of historic public use or trust rights as found in Section 20.70.050 B 4 of the Coastal Implementation Plan, Part I, and there is no access required to accommodate the proposed use as evidenced in proposed plans.

**EVIDENCE:** The subject property is not described as an area where the Local Coastal Program requires access given the dedicated access sites north of Grimes Point (Priority 3 of the Shoreline Access Plan shown in Figure 2 of the Big Sur Coast Land Use Plan). From Grimes Point to Partington Point, access destination is limited to the development of scenic overlooks and improving selected pullouts for use as overlooks. The steepness of the terrain at the subject parcel requires constraints to public access and the elimination of informal trails as listed in Table 2 of the Big Sur Coast Land Use Plan.

7. **FINDING:** The subject property is in compliance with all rules and regulations pertaining to the use of the property; no violations exist on the property and all zoning abatement costs, if any have been paid.

**EVIDENCE:** Staff reviewed Monterey County Planning and Building Inspection Department records and verified that no violations exist on subject property.

8. **FINDING:** The site is suitable for the use proposed.

**EVIDENCE:** Staff conducted three on-site visits and finds the site suitable for this use as long as mitigations are placed on the project and the development is monitored over a three-year

period to ensure that development does not have a significant impact on the sensitive environmental habitats found at the site.

**EVIDENCE:** The project has been reviewed for suitability by the Planning & Building Inspection Department, Environmental Health Division, Public Works Department, Water Resources Agency, the Big Sur Land Use Advisory Committee, and the California Coastal Commission. Conditions placed on the project by these agencies have been incorporated into the conditions.

**EVIDENCE:** Site-specific conditions are placed on the project by the California Department of Forestry Big Sur Fire District (“CDF”) to mitigate the development in a very high fire hazard area. The CDF has required 14 standard conditions of approval for the project that detail requirements for emergency access; signing and building numbering; emergency water standards; fuel modification standards; and on-site fire protection equipment. Compliance with these conditions is monitored through the standard building inspection process prior to issuance of the final building permit.

**EVIDENCE:** The following consultant reports were conducted for the project upon which to evaluate the project to assure that the proposal would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County by investigating soil conditions, geologic hazards, biologic and archaeologic/ cultural findings at the subject site:

- CapRock Geology, Inc., Geological Report for Wild Bird Residence, Grimes Point, Big Sur, Monterey County, California, APN #420-201-012, June 12, 2002, Ref No.: 4241-01.
- Richard E. Dante, P.E. of Soil Surveys, Inc. Geotechnical Investigation for Wild Bird, LLC; Wild Bird Property at Grimes Point, Highway One, Big Sur Area, California, June 20, 2002.
- EMC Planning Group, Inc., Biological Resources Assessment, Wild Bird (Highway 1 at Grimes Point, APN 420-201-012), June 2002.
- Fletcher + Hardoin, Architects, WILD BIRD View Analysis, July 15, 2002, Revised November 26, 2003.
- Mary Doane, B.A., and Trudy Haversat, RPA, Preliminary Archaeological Reconnaissance for the Wild Bird Project, A Portion of Assessor’s Parcel 420-201-012, Grimes Point, Monterey County, California, February 5, 2002.
- Sheila McElroy of Circa: Historic Property Development, Cultural Resource Report for Wild Bird, Big Sur, California, APN 420-201-012, July 31, 2002, *with the final addendum as follows:*
- Sheila McElroy of Circa: Historic Property Development, Historic / Cultural Evaluation Report for Wild Bird, Big Sur, California, APN 420-201-012, August 29, 2003.



The reports indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed when subject to mitigation measures. County staff concurs with the consultants that the environmental and cultural restraints—*particularly the potential historic resource of the site and its location in the Big Sur Critical Viewshed*--can be mitigated to less than significant when standard conditions, specially applied mitigations, and a reporting program are applied to the proposed project. To this end, recommended conditions and mitigations placed on the project by these consultants have been incorporated into the “Condition Compliance and/or Mitigation Monitoring Reporting Plan” for this project. The applicant shall enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan” prior to issuance of any grading or building permits

- 9. FINDING:** The project is consistent with Section 20.145.050 of the Coastal Implementation Plan dealing with Water Resources. The proposed project was evaluated in terms of the intensification of use in a Watershed Conservation area. It was determined that there would be no "substantial water use intensification" as the rehabilitation and additions to existing structures would not increase the number of households (Section 20.145.050 B.) nor would the water source be transported from another watershed (Section 20.145.050 A).

**EVIDENCE:** The property has an existing “License for Diversion and Use of Water,” Permit #10576, License #5818 from the State Water Rights Board. The current system utilizes a collection area in the Grimes Creek along the north property line. Water is pumped up to an approximate 600-gallon water tank located at the highest point on the property. Water is then gravity fed down to the residence.

- 10. FINDING:** The project as proposed is consistent with policies of the Big Sur Coast Area Coastal Implementation Plan dealing with development in archaeologically sensitive areas. The report states that there are not clearly identifiable archaeological resources located on site.

**EVIDENCE:** According to Mary Doane and Trudy Haversat of Archaeological Consulting, the project area is within the recognized ethnographic territory of the Eselen linguistic group. Field research indicates evidence of sparse, surface, potentially significant cultural resources, although the context is greatly disturbed and it is not clear that the materials originated at the site. If the cultural materials did originate on site, the deposit may have been completely disturbed by prior construction. Because of this finding, Doane and Haversat recommend the following mitigations:

A qualified archaeological monitor shall be present during construction activities that involve soil disturbance, such as grading, excavation for new foundations, etc. If human remains or intact cultural features are discovered during construction, work shall be halted until the find can be evaluated during construction, work shall be halted until the find can be evaluated by the monitor, and appropriate mitigation measures formulated and implemented. If suitable materials from intact midden are recovered during

monitoring, at least one radiocarbon date shall be obtained as mitigation for incidental impacts to prehistoric resources.

**EVIDENCE:** Mitigation No. 10.

- 11. FINDING:** According to Chapter 20.54 of the Monterey County Coastal Implementation Plan, Part 1, incentives and regulations for the protection, preservation, enhancement, and perpetuation of historic structures are provided in zoning districts which are combined with a “Historic Resources District” (“HR”) designation. Because of association of the Wild Bird site with Margaret Owings for her contribution to the protection of the environment, architectural historian Sheila McElroy recognizes that in a future evaluation, the site would appear to be potentially eligible on the local level for inclusion in a local register of historic resources, if not eligibility for inclusion in the California Register of Historic Resources. Therefore, it is deemed appropriate that a Historic Resource (“HR”) zoning overlay be placed on the site that will serve to flag for review as a local historic resource any future proposed demolition or alteration of the existing structures pursuant to Sections 20.54.030 D. and 20.54.080 G. of Part 1 of the Coastal Implementation Plan, Title 20.

**EVIDENCE:** The applicant shall request, in writing, a rezoning of the parcel to add an “HR” (Historical or Archaeological Resources) zoning designation to the existing zoning or the parcel.

**EVIDENCE:** Mitigation No. 9.

- 12. FINDING:** The establishment, maintenance or operation of the Use/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:** The project was reviewed by the Planning & Building Inspection Department, the California Department of Forestry Big Sur Fire District, the Environmental Health Department, the Public Works Department, the Water Resources Agency, the Big Sur Land Use Advisory Committee, the State Department of Fish and Game, and the California Coastal Commission. The respective departments/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.

**EVIDENCE:** The Planning & Building Inspection Department places specific standards and regulations for the use of the proposed guesthouse and caretaker unit as dwelling units accessory to the main residence on the same parcel.

**EVIDENCE:** The project site is found to be in a very high fire hazard area that shall require recorded noticing and compliance with the California Department of Forestry Fire Prevention (“CDF”) conditions of approval for emergency access, an emergency water supply,

proper signing for property identification, setbacks from flammable vegetation, indoor sprinkler system, and fire retardant roofing. The location of a water tank and the materials used for road surfacing required by the CDF shall require joint approval of the Planning & Building Inspection Department to be assured consistency with the Local Coastal Plan policies of development within the public viewshed.

**EVIDENCE:** Necessary public facilities are available and will be provided, particularly when the Fire District conditions of approval for emergency access to the site are implemented (see file no. PLN010266).

**13. FINDING:** There is no substantial evidence in the record as a whole before the Planning Commission that supports a fair argument that the proposed project as designed, conditioned and mitigated, will have significant adverse effects on the environment. The mitigated negative declaration reflects the independent judgment of the Monterey County Planning and Building Department.

**EVIDENCE:** The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The mitigation measures are recommended to mitigate primarily the potential significant impacts to the aesthetic, biological, and cultural resources on the site. The project file is in the office of the Planning & Building Inspection Department (file no. PLN010266). All project mitigations required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

**EVIDENCE:** A Mitigation Monitoring and Reporting Plan has been prepared in accordance with Monterey County regulations that are designed to ensure compliance during project implementation, and the applicant shall enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan” prior to issuance of any grading or building permits.

**EVIDENCE:** Technical Reports have been prepared (listed under Evidence for Finding 9 above) as part of the environmental determination and recommendations have been incorporated into the project or made conditions of approval.

**EVIDENCE:** The Combined Development Permit for the project includes placement of a Scenic and Conservation Easement over the entire, newly created parcel exclusive of the immediate building envelopes given that there is no other feasible site on the subject parcel that would be better screened visually from Highway One. The Scenic and Conservation Easement shall specify those portions of the property where sensitive habitats exist and are not to be materially altered except for the removal of invasive, exotic plant species and to provide for maintenance needs.

- 14. FINDING:** The project is appealable to the Board of Supervisors and California Coastal Commission.  
**EVIDENCE:** Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Title 20) and Section 19.01.050 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

## **DECISION**

It is the decision of the Planning Commission to adopt Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approve said application for a Combined Development Permit as shown on the attached sketch and subject to the following conditions.

**PASSED AND ADOPTED** this 30th day of June, 2004, by the following vote:

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

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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. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.