

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

RESOLUTION NO. 04055

A.P. # 000-000-000-000

FINDINGS & DECISION

In the matter of the application of
TAMC (PLN040632)

for an Amendment to a Coastal Development Permit (PLN030123) in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow relocation of an approved call box site from Post Mile 55.7 (Sandy Flats) to Post Mile 4.7 (Radio Point) within the Highway One critical viewshed. The new site is located in a pull off on the east side of Highway 1 at Post Mile 4.7, approximately 5 miles south of Gorda, Big Sur Coast area, Coastal Zone (Highway 1 right-of-way), came on regularly for hearing before the Planning Commission on December 8, 2004.

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 applicable plans and policies, the Big Sur Coast Land Use Plan, Coastal Implementation Plan (Parts 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), 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.
- (b) Site Visit. Project planner conducted an on-site inspection on September 16, 2004 to verify that the project in the subject locations conforms to the plans listed above.
- (c) Land Use. The amendment is to relocate one call box site from post mile 55.7 (Sandy Flats) to post mile 4.7 (Radio Point). The new call box site within the Highway 1 right-of-way is a conditionally allowed 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 Big Sur Coast LUAC reviewed the project on October 26, 2004 and recommended approval of the project by a vote of 5-0. The South Coast LUAC reviewed the project on November 9, 2004 and recommended approval of the project by a vote of 3-0. The Big Sur Coast LUAC requested that TAMC provide information to the County regarding call box usage within one year after installation. Usage information is routinely collected by TAMC and is available to the public at their request. The applicant has stated that they are willing to provide the information to the County, as well as to provide an update to the LUAC a year after installation. Conditions of the original permit (PLN030123) are incorporated by reference into this permit. Among those conditions is the requirement for a permit renewal and re-evaluation of the call box system after five years. Re-evaluation of the system and individual sites will consider changes in conditions or technology and usage information to determine whether the continued need is warranted.
- (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 PLN040632 and PLN030123.

2. FINDING: SITE SUITABILITY: The site is suitable for the proposed use.
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 of the previously approved Coastal Development Permit (PLN030123) are incorporated by reference. No new conditions were recommended.
- (b) The site is already disturbed as a pull-off and the project requires minimal disturbance. The siting and location of the project is consistent with criteria used for the previously approved Coastal Development Permit (PLN030123). Visual impacts are minimized.
- (c) Staff conducted field investigations on September 16, 2004 to verify that the sites are suitable for the proposed use.
- (d) Necessary public facilities are available and will be provided. The call boxes will utilize solar panels for power and will be connected via existing landlines.

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. This Initial Study is on file in the offices of the Planning and Building Inspection Department and is hereby incorporated by reference. Project file number PLN040632.
- (b) Evidence that has been received and considered includes:
- The application and materials in project files PLN030123 and PLN040632.

- The adopted Negative Declaration for Coastal Development Permit PLN030123.
 - Staff site visit on September 16, 2004.
 - Staff reports that reflect the County's independent judgment
- (c) Potential visual impacts have been minimized through design modifications and careful siting. The call box signs have been reduced to a minimum size and the pole and call box will be painted in earth tone brown and green colors to compliment the outdoor setting. No extraneous signs are proposed. The proposed Radio Point location is consistent with the siting criteria used at the other call box locations. It is placed in an already disturbed turnout to minimize new disturbance. It is located on the east (inland) side of Highway 1 to avoid disrupting views of the ocean and is situated in front of a steep hillside to avoid standing out. A large pull-off on the opposite (west) side of the highway already experiences public use. In addition, the road geometry near this site is winding so that prolonged views of the call box are avoided. The site has been reviewed by the necessary public agencies to ensure adequate sight distance and the safety of the public using the facility.
- (d) The Negative Declaration revised on October 11, 2004 to reflect project changes was circulated for public review from October 15, 2004 to November 15, 2003. No comments were received during the public review period.
- (e) De Minimis Finding. The project was determined to be exempt from the Fish and Game fee because the project occurs in already disturbed areas of the highway right-of-way with minimal excavation to insert the call box poles and no possibility of disturbing sensitive biological resources.
- (f) 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 PLN040632.

- 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.
- (c) Staff site visit on September 16, 2004.

6. **FINDING: SCENIC RESOURCES:** The subject project is consistent with Visual Resource Policies of the Big Sur Coast Land Use Plan and the Carmel Area 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 (Policy 3.2.5.C.1). The project has minimized visibility through design modifications and siting considerations while still meeting project requirements. In addition, conditions of approval of the original permit (PLN030123) are incorporated by reference and include a condition limiting the life of the permit to five years and requiring a renewal in order to reevaluate the usage and need for the call box system. The project as designed and conditioned is consistent with the policy.

(b) Policy 4.1.2.1 of the Big Sur LUP states that “Improvements to Highway 1 shall be undertaken in order to increase its service capacity and safety, consistent with its retention as a scenic two-lane road.” The proposed Radio Point site was selected because it was determined by TAMC as an area that would benefit from the availability of an emergency call box. Other agencies concur. It was also chosen because it allows the call box to be located near an area currently receiving public use in a turnout and opposite a large pull-off.

(c) The site is located on the inland (east) side of the highway in order to prevent any interruption of ocean views, pursuant to Policy 3.2.4.A.1. A steep hillside behind the proposed location provides a backdrop to minimize visibility, as described in Policy 3.2.4.A.2.

(d) The call box design has been modified to minimize their visibility, pursuant to Policy 3.2.4.A.3 regarding the design of new development. The two attached call box signs have been reduced from the standard 30”x36” size for the text sign and 12”x18” for the icon sign down to a minimum necessary size of 12”x18” and 6”x12” respectively. The pole and call box will be painted in earth tone brown and green colors to compliment the outdoor setting with a matte finish to reduce reflection. Extraneous signs were eliminated.

(e) Staff site visits on September 16, 2004.

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 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. 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. Highway 1 is the first through public road paralleling the sea. The project is a permitted use in the underlying zone as a conditional use.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application is granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 8th day of December, 2004, by the following vote:

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

JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on

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 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. 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.

<p align="center">Monterey County Planning and Building Inspection</p> <p align="center">Condition Compliance and/or Mitigation Monitoring Reporting Plan</p>	<p><i>Project Name:</i> TAMC <i>File No:</i> PLN040632</p> <p><i>APNs:</i> <u>State Highway 1 Right-Of-Way, Post Mile 4.7</u></p> <p><i>Approval by:</i> <u>Planning Commission</u> <i>Date:</i> <u>December 8, 2004</u></p>
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig.</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verifica tion of Compli ance</i>
1		<p>SPECIFIC USES ONLY</p> <p><i>This Amendment to Coastal Development Permit (PLN040632) allows relocation of an approved call box site from post mile 55.7 (Sandy Flats) to post mile 4.7 (Radio Point) within the Highway One critical viewshed. The new site is located in a pull off on the east side of Highway One at post mile 4.7, approximately 5 miles south of Gorda, Big Sur Coast Area, Coastal Zone (State Highway One Right-Of-Way). This permit was approved in accordance with County ordinances and land use regulations 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)</i></p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

2		<p>NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice that states: "A permit (Resolution 04055) was approved by the Planning Commission for State Highway One at post mile 4.7 (Radio Point) on December 8, 2004. The permit was granted subject to 4 conditions of approval, which 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)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to start of construction or commencement of use.	
3		<p>NOTICE OF DETERMINATION</p> <p>Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall file a Notice of Determination/De Minimus Impact Finding within five (5) working days of project approval. A \$25 filing fee, to be collected by the County, shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)</p>	Payment of \$25 filing fee within five (5) working days of permit approval.	Owner/ Applicant	Within 5 days working of permit approval	
4		<p>PREVIOUS CONDITIONS</p> <p>The conditions of approval for Coastal Development Permit (PLN030123) shall continue to apply and are incorporated by reference herein. (Planning and Building Inspection Department)</p>	Adhere to Conditions of Approval for Coastal Development Permit (PLN030123).	Owner/ Applicant	Ongoing	