

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

RESOLUTION NO. 05004

A. P. # 161-251-010-000
161-251-011-000
161-251-021-000

In the matter of the application of
Cypress Community Church (PLN040308)

FINDINGS & DECISION

for an Administrative Permit in accordance with Title 21 (Zoning) Chapter 21.70 (Administrative Permits) of the Monterey County Code, to allow for the construction of a driveway connecting to the north side of the intersection of Corral de Tierra Road and Highway 68 in a VS (Visual Sensitivity) Zone; Grading (734 cu. yds. of cut/1,698 cu. yds of fill); and Design Approval. The property is located at 681 Monterey-Salinas Highway, Salinas, Toro area, came on regularly for meeting before the Planning Commission on January 12, 2005.

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 of the Toro Land Use Plan, and County Zoning Ordinance (Title 21) which designates this area as appropriate for public/quasi-public development including a church.

EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Toro Land Use Plan, and for conformity with the Monterey County Zoning Ordinance (Title 21) and have determined that the project is consistent and appropriate for development. Staff notes are provided in Project File PLN040308.

(b) The Toro Land Use Advisory Committee recommended approval of the project on July 12, 2004, by a vote of five (5) for, two (2) against, and two (2) absent contingent upon submission to the Committee of a comprehensive landscape plan.

(c) 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 PLN040308.
- 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, Public Works, Water Resources Agency, Environmental Health, and Parks. Conditions recommended have been incorporated.

(b) Technical reports by outside archaeology and biological consultants indicate that there are no physical or environmental constraints such as environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed.

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

3. **FINDING: ENVIRONMENTAL IMPACTS:** The proposed project will not have a significant environmental impact.

EVIDENCE: (a) County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not, as mitigated, have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on July 30, 2004.

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. 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 existing on subject property.

5. **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) Preceding findings and supporting evidence.

(b) The existing driveway access to/from Highway 68 shall be abandoned with the realignment access point moved to an existing signaled intersection, which would reduce potential traffic hazards associated with ingress and egress onto a heavily traversed road.

6. **FINDING: APPEALABILITY -** The decision on this project is appealable to the Board of Supervisors.

EVIDENCE: (a) Section 21.80.040.D of the Monterey County Zoning Ordinance.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application for an Administrative Permit be granted as shown on the attached sketch, and subject to the attached conditions.

PASSED AND ADOPTED this 12th day of January 2005.

JEFF MAIN, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 Salinas.

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

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| Planning and Building Inspection Department Condition Compliance & Mitigation Monitoring and/or Reporting Plan | Project Name: <i>Cypress Community Church – Driveway</i> File No: <u>PLN040308</u> APNs: <u>161-251-011-00</u> Approval by: _____ Date: _____ |
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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. Num ber</i> | <i>Conditions of Approval and/or Mitigation Measures 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>Verification of Compliance (name/date)</i> |
|------------------------------------|-------------------------------|---|--|---|---|---|
| 1. | | NOTICE-PERMIT APPROVAL The applicant shall record a notice, which states: "A permit (Resolution 05004) was approved by the Planning Commission for Assessor's Parcel Number 161-251-011-000 on January 12, 2005. The permit was granted subject to 16 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) | Proof of recordation of this notice shall be furnished to PBI. | Owner/ Applicant | Prior to Issuance of grading permits. | |
| 2. | | SPECIFIC USES ONLY This Use Permit (PLN040308) allows construction of a driveway/access road connecting to the north side of the intersection of Corral De Tierra Road and Highway 68 in a visual sensitivity (VS) zone. The property is located at 681 Monterey-Salinas Highway (Assessor's Parcel Number 161-251-011-000). 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) | Adhere to conditions and uses specified in the permit. | Owner/ Applicant | Ongoing unless other- wise stated | |

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| 3. | | EROSION CONTROL PLAN AND SCHEDULE The approved development shall incorporate the recommendations of an Erosion Control Plan as reviewed by the Soils Conservation Service and the Director of Planning and Building Inspection. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation, and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. (Planning and Building Inspection) | 1) Evidence of compliance with the Erosion Control Plan shall be submitted to PBI prior to issuance of building and grading permits. 2) Evidence of compliance with the Implementation Schedule shall be submitted to PBI during the course of construction until project completion as approved by the Director of PBI. | Owner/ Applicant | Prior to Issuance of Grading Permits | |
| 4. | | NON-STANDARD – Obtain an encroachment permit from Monterey county for that portion of the roadway crossing the County of Monterey Property. (Public Works) | Evidence of issuance of encroachment permit shall be submitted to PBI. | Owner/ Applicant | Prior to Issuance of Grading Permits | |
| 5. | | NON-STANDARD – Obtain an encroachment permit from CalTrans for the driveway connection to Highway 68 (Public Works) | Evidence of issuance of encroachment permit shall be submitted to PBI and Public works. | Owner/ Applicant | Prior to Issuance of Grading Permits | |
| 6. | | GRADING PERMITS REQUIRED A grading permit is required access driveways greater than fifty (50) feet in total length that require 100 cubic yards or more of earthwork. (Planning and Building Inspection) | Apply and receive the appropriate grading permit from Monterey County Planning and Building Inspection. | Engineer/ Owner/ Applicant | Prior to Issuance of Grading or Building Permits | |

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| 7. | | GRADING STAKING The proposed grading shall be staked with 18” stakes at 100-foot intervals. The staking shall be consistent with proposed grading as indicated in the official record at the Monterey County Planning and Building Inspection Department. The staking shall be verified at the grading pre-site inspection by the grading inspector. (Planning and Building Inspection) | The proposed grading shall be staked with 18” stakes at 100-foot intervals. The staking shall be consistent with proposed grading as indicated in the official record at the Monterey County Planning and Building Inspection Department. | Owner/ Applicant | At presite insp. by the grading inspector | |
| 8. | | PBD014 - GRADING-WINTER RESTRICTION No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection and Department of Fish and Game. (Planning and Building Inspection and Department of Fish and Game) | None | Owner/ Applicant | Ongoing | |
| 9. | | PBD016 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney’s fees, which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action, or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action, or proceeding or fails | Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to PBI. | Owner/ Applicant | Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, whichever occurs first and as applicable | |

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| | | to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify, or hold the county harmless. (Planning and Building Inspection) | | | | |
| 10. | | NOTICE OF REPORT Prior to issuance of grading permit, a notice shall be recorded with the Monterey County Recorder, which states: "A Draft Biological Assessment report has been prepared for this parcel by Josh Harwayne of Denise Duffy & Associates, Inc., dated January 30, 2004 and is in the project file. Development shall be in accordance with this report." (Planning and Building Inspection) | Proof of recordation of this notice shall be furnished to PBI. | Owner/ Applicant | Prior to issuance of grading permit | |
| 11. | | NOTICE OF STREAMBED AGREEMENT Prior to issuance of grading permit, a notice shall be recorded with the Monterey County Recorder, which states: "A Streambed Alteration Agreement, dated October 7, 2003, was secured from the State of California Department of Fish and Game, which permits three oversize culverts to be installed to accommodate flow through the drainage that tributaries to Toro Creek. Development shall be in accordance with this Agreement." (Planning and Building Inspection and Fish and Game) | Proof of recordation of this notice shall be furnished to PBI. | Owner/ Applicant | Prior to issuance of Grading permit | |
| 12. | | NOTICE OF RIGHT-OF-WAY APPLICATION Prior to issuance of grading permit, a notice shall be recorded with the Monterey County Recorder, which states: "A Right of Way Agreement was secured from the Bureau of Land Management (BLM), which permits three oversize culverts to be installed to accommodate flow through the drainage that tributaries to Toro Creek. Development shall be in accordance with this Agreement." (Planning and Building Inspection and Fish and Game) | Proof of recordation of this notice shall be furnished to PBI. | Owner/ Applicant | Prior to issuance of Grading permit | |

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| 13. | | EASEMENT - CONSERVATION A conservation easement shall be conveyed to the United States of America, Bureau of Land Management over those portions of the property where sensitive habitats, archaeological sites, etc. exists. (Planning and Building Inspection and Bureau of Land Management) | Submit approved and recorded conservation easement to PBI. | Owner/ Applicant | Prior to Issuance of Grading Permit | |
| 14. | | LANDSCAPE PLAN AND MAINTENANCE The site shall be landscaped. At least 60 days prior to final inspection, 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) | Submit landscape plans and contractor's estimate to PBI for review and approval. Owner/ | Applicant/ Contractor | At least 60 days prior to final inspection. | |
| | | | Submit landscape plans to Toro LUAC for review and recommendations | Planning Staff | | |
| | | | All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. | Owner/ Applicant | Ongoing | |
| 15. | | TREE AND ROOT PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy drip lines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection) | Submit evidence of tree protection to PBI for review and approval. | Owner/ Applicant | Prior to Issuance of Grading and/or Building Permits | |

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| 16. | | <p>STOP WORK - RESOURCES FOUND</p> <p>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 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. 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)</p> | Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical, or paleontological resources are uncovered. 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. | Owner/ Applicant/ Archaeologist | Ongoing | |
| 17. | | <p>UTILITIES - UNDERGROUND</p> <p>All new utility and distribution lines shall be placed underground. (Planning and Building Inspection; Public Works)</p> | None | Applicant/ Owner | Ongoing | |
| 18. | | <p>MITIGATION MONITORING PROGRAM</p> <p>The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (Planning and Building Inspection)</p> | <ol style="list-style-type: none"> 1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement. | Owner/ Applicant | Prior to issuance of grading and building permits. | |

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| 19. | | PBD012 - FISH AND GAME FEE-NEG DEC/EIR Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) calendar days of project approval – prior to filing of the Notice of Determination. This fee 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) | Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection. | Owner/ Applicant | Prior to the issuance of grading permits. | |
| | 1-1 | AESTHETICS - Substantially degrade the existing visual character or quality of the site and its surroundings. Installation of fences (Planning and Building Inspection) | The boundaries of the right-of-way shall be demarcated by temporary fences during construction. | Owner Applicant | Prior to the issuance of grading permits. | |
| | | | Within 60 days of project completion, the temporary fences shall be replaced with permanent fences, subject to review and approval by the Planning Director for visual Compatibility. | Owner Applicant | Prior to the issuance of Final Inspection | |
| | 1-2 | AESTHETICS - Substantially degrade the existing visual character or quality of the site and its surroundings. Soils disturbed during construction shall be re-vegetated with plants native to Fort Ord. Re-vegetation and/or landscaping efforts shall be maintained by the applicant to assure success of the re-vegetation or landscaping and to remove any invasive non-native species. Landscaping with species not native to Fort Ord shall not be permitted. The plant palette shall be selected from the approved list of species maintained by the authorized BLM officer. (Planning and Building Inspection and Bureau of Land Management) | Proof of use of approved plant palette shall be furnished by the applicant to the Director of Planning and Building Inspection | Applicant/ Owner | Prior to Issuance of Grading Permits | |

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| | 1-3 | <p>AESTHETICS – Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.</p> <p>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. (Planning and Building Inspection)</p> | The applicant shall submit 3 copies of an exterior lighting plan, which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of grading permits. | Applicant/ Owner | Prior to Issuance of Grading Permits | |
| | 15-1 | <p>TRAFFIC – Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections).</p> <p>All signal and striping improvements required by CalTrans to the Cypress Church driveway and Corral de Tierra/Highway 68 intersection shall be implemented. (Planning and Building Inspection Department, CalTrans, and Public Works Department.)</p> | The applicant shall submit 3 copies of a striping and signalization plan to Planning and Building for review and approval by Public Works and CalTrans. | Owner/ Applicant | Prior to Final Inspection | |