

RESOLUTION NO. 010302

A.P.# 424-091-021-000

In the matter of the application of
Trio Petroleum, Inc. (PLN010302)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for the drilling of an exploratory oil and/or natural gas well with a portable drilling rig capable of drilling to a depth of 11,300 feet, for a one year period, located at 76938 Nacimiento Lake Drive, approximately 4 miles south of the intersection of Nacimiento Lake Drive and Jolon Road, South County area, came on regularly for hearing before the Zoning Administrator on January 31, 2002.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING:** The subject Use Permit (**Trio Petroleum; PLN000612**), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, the South County Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 76938 Nacimiento Lake Drive (Assessor's Parcel number 424-091-021-000), approximately 4 miles south of the intersection of Nacimiento Lake Drive and Jolon Road, South County area (Section 26, Township 24 South, Range 10 East). The parcel is zoned "PG/40" or Permanent Grazing, with 1 units/acre. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.
EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and South County Area Plan.
EVIDENCE: The project site is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and the South County California Department of Forestry Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval.
EVIDENCE: The proposed use is consistent with the development standards for Farmlands pursuant to Title 21, Monterey County Zoning Ordinance.
EVIDENCE: The proposed use is considered a "Compatible Use" with Agricultural Preservation Contract No. 79-02, Exhibit "A", item 13.
EVIDENCE: Written and verbal public testimony submitted at public hearings before the Zoning Administrator.
EVIDENCE: 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 no. PLN010302.
EVIDENCE: Section 21.30.050 EE. of the Monterey County Zoning Ordinance (Title 21). Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: Conditions 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

2. **FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE: Section 15304 (e) of the State CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

EVIDENCE: The biological consultant, Sierra Delta Corporation, indicated at a nearby exploratory well site (Trio Petroleum, Inc.; PLN000613) that the protected San Joaquin Kit Fox habitat is found throughout the Central Salinas Valley and South County Area. The consulting biologist has submitted a letter dated January 22, 2002, stating that no San Joaquin Kit Fox habitat exists at the proposed drilling site. The consultant biologist further states that due to the project's nature and location with respect to habitat features, it will have no impact on the kit fox or its habitat. Nonetheless, a condition of approval requires the applicant instruct all personnel who will be on site on the natural habits and appropriate protocol to protect this protected species. The biological consultant has prepared instructions for such use that will be furnished to employees.

EVIDENCE: Condition 12 requires that the applicant restore the temporary drilling site to a condition corresponding with the adjoining area.

EVIDENCE: Condition number 10 requires that the consulting biologist provide educational material and training to employees regarding protection of the San Joaquin Kit Fox habitat.

EVIDENCE: Letter from Sierra Delta Corporation dated January 22, 2002. found in Planning and Building Inspection Department File No. PLN010302.

3. **FINDING:** A portion of the parcel is located within Zone A, 100 year floodplain of the San Antonio River, as shown on FEMA Flood Insurance Rate Map 060195 0975 D, dated January 30, 1984.

EVIDENCE: The drilling site is on a geomorphic bench overlooking the San Antonio River that is not considered subject to the 100 year floodplain. Nonetheless, the applicant will be required to provide notice that the parcel is partially within a 100 year floodplain.

EVIDENCE: The project was reviewed by the Monterey County Water Resources Agency for conformity with applicable provisions of the County Code. Appropriate recommendations for the project are contained in Planning and Building Inspection Department File No. PLN010302.

EVIDENCE: Condition number 5.

4. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, California Department of Forestry Fire Department, and Water Resources Agency. The respective departments 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; or the County in general.

EVIDENCE: File and application materials contained in the project file no. PLN010302.

EVIDENCE: Conditions 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

5 **FINDING:** The project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for a Use Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Use Permit consists of the drilling of one exploratory oil and/or natural gas well with a portable drilling rig for one year, capable of drilling to a depth of 11,300 feet., The property under Agricultural Preserve contract #79-02 is located at 76938 Nacimiento Lake Drive (Assessor's Parcel number 424-091-021-000), approximately 4 miles south of the intersection of Nacimiento Lake Drive and Jolon Road, South County area (Section 26, Township 24 South, Range 10 East). The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to commencement of operation:

2. 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 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)**
3. The applicant shall record a notice which states: "A permit (Resolution 010302) was approved by the Zoning Administrator for Assessor's Parcel Number 424-091-021-000 on January 31, 2002. The permit was granted subject to 14 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)**
4. The applicant shall comply with the requirements of the State of California Division of Oil and Gas and submit a

copy of the Notice of Intention to Drill and proof of the State's licensing for this operation to Environmental Health. **(Environmental Health/Planning and Building Inspection)**

5. Owner shall record a notice stating that the property is located within or partially within a floodplain and may be subject to building and/or land use restrictions. A copy of the recorded notice shall be provided to the County Water Resources Agency. **(Water Resources Agency)**
6. The applicant shall provide to the Water Resources Agency information on the well including the geologic log and any available e-logs. **(Water Resources Agency)**
7. Any oil or by-products produced from the exploratory drilling shall be stored in accordance with State of California standards and trucked off site. Waste water shall be vacuumed up on site and removed or re-injected into the well. **(Planning and Building Inspection)**
8. When and if the well site is developed for production and storage, comply with Title 19 of the California Code of Regulations, Subchapter 3, and Health and Safety Code Chapter 6.95 (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. **(Environmental Health/Planning and Building Inspection)**
9. The applicant shall provide a minimum of a 10,000 gallon water tank *solely* for fire protection, no closer than 500 feet or further than 1000 feet from the exploratory drilling site. The tank shall have a 2 ½ inches Fire Department-approved connection installed. **(South County California Department of Forestry)**
10. The applicant shall require the biological consultant to conduct an educational program for employees working on the site pertaining to the San Joaquin Kit Fox habitat. An outline of the educational program shall be submitted along with method of instruction to the Director of Planning and Building Inspection Department prior to the drilling operation. The biological consultant shall monitor the establishment of the drilling site and provide confirmation that the exploratory drilling will have no impact on any San Joaquin Kit Fox habitat. **(Planning and Building Inspection)**
11. Employees participating in the drilling operation are not authorized to maintain any type of permanent living unit at the site with the exception of a temporary, self-contained Recreation Vehicle for one employee to monitor those operations involving any 24 hour shift. **(Planning and Building Inspection)**
12. That the oil drilling site, upon completion of the use, be restored to a condition to correspond with the adjoining area, subject to the approval of the Director of Planning and Building Inspection. Plans for such restoration shall be submitted to and approved by the Director of Planning and Building Inspection prior to commencement of use. The applicant shall restore the drilling site to its natural state prior to the abandonment of the site. **(Planning and Building Inspection)**

Prior to termination of the 1 year exploratory drilling:

13. Prior to the expiration of the one year period granted to the applicant for exploratory drilling, the applicant may submit a written request to the Director of Planning and Building Inspection to extend the exploration at the specific site for a period not to exceed an additional six months. The Director Planning and Building Inspection shall consider this extension providing no grading, zoning, land use policies, local or state regulations are in violation. The applicant shall be notified in writing of the decision of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
14. In the event the exploratory well results in a discovery of oil and/or natural gas in commercial quantities, the

applicant shall apply to the County of Monterey for a subsequent use permit which will provide for the future development of the potential oil and gas reserves. At that time, the applicant shall obtain also any other permits, or amendments to existing permits, from the Monterey Bay Unified Air Pollution Control District, California Regional Water Quality Board, and the State of California Division of Oil and Gas prior to further drilling activities, and submit a copy of said permit(s) to the Department of Planning and Building Inspection. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 31st day of January, 2002.

Original Signed By:

LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION 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 Salinas.

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