

RESOLUTION NO. 990053

A.P.# 129-152-007-000M

FINDINGS & DECISION

In the matter of the application of
Van Arsdale-Morgan Partnership (PLN990053)

for a Coastal Administrative Permit in accordance with Chapter 20.76 (Coastal Administrative Permits) of Title 20, Monterey County Code (Zoning), to allow a mutual water system connecting to an existing well for seven (7) future connections for seven individual parcels; and two water storage tanks (10,000 gallon capacity each), fronting on and northerly of Hidden Valley Road at 345 Hidden Valley Road, North County area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on July 11, 2002

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

1. **FINDING:** The subject Administrative Permit (PLN990053), as described in Condition #1 and as conditioned, conforms to the plans, policies, requirements and standards of the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for the parcel consists of the North County Land Use Plan, Coastal Implementation Plan (Part 2), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The primary parcel is located at 345 Hidden Valley Road. Assessors Parcel Numbers for the water system are: 1) 129-161-041-000, 2) 129-162-001-000, 3) 129-162-002-000, 4) 129-151-007-000, 5) 129-151-055-000, 6) 129-152-007-000, and 7) 129-152-008-000. The parcels are zoned "RDR/5 CZ" or Rural Density Residential, 5 acres per unit, Coastal Zone. The parcels are physically suitable for the use proposed. 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 because 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: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The North County Land Use and Implementation Plans;
- b) The Monterey County Coastal Implementation Plan regulations for Rural Density Residential zoning district or the "RDR (CZ)" in the Coastal Zone; and

EVIDENCE: The Monterey County Planning and Building Inspection Department, the Water Resources Agency, the Public Works Department, the Environmental Health Department, the Parks and Recreation Department, and the North County Fire Protection District have reviewed the proposed development. There has been no indication from the preceding agencies that the site is not suitable for the proposed development. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property. The Initial Study

demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for improvements where appropriate.

EVIDENCE: The proposed use is consistent with the development standards for the Rural Density Residential zoning district pursuant to Title 20, Monterey County Coastal Implementation Plan (Part 1).

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 the project file.

EVIDENCE: Policy 2.3.2.2 states that land uses adjacent to location of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resources. The water tanks are the only part of the project that would potentially impact environmentally sensitive habitat. The originally proposed location of the water tanks would have required the removal of approximately 65 percent of the manzanita in a northern portion of the property according to the biological survey done in November 1999. Subsequently, the tanks were relocated to an area where no manzanita would need to be removed. Although no new biological survey was prepared for the newly proposed location, a site visit by County staff confirmed that the area did not contain coastal chaparral habitat or manzanita.

2. **FINDING:** The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment and a Mitigated Negative Declaration and a Mitigation Monitoring Plan have been prepared pursuant to Public Resources Code Section 21081.6 and are approved and attached to and incorporated herein as is set forth in full as Exhibit “D” and Exhibit “E” respectively. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant affects on the environment have been incorporated into the approved Mitigation Monitoring Plan as conditions of project approval. Potential environmental effects have been studied and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may cause a significant effect on the environment. Subsequent to the end of the public review period, the water tanks were relocated to an area of the property where no environmentally sensitive habitat exists. As a result the project’s impact is to a lesser degree and is consistent with the previous findings in the Initial Study. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon Section 8 (Fish and Game Environmental Document Fees) of the Initial Study and the findings and conclusions drawn in the Initial Study and in consideration of testimony and information received, and scientific and factual data presented as evidence during the public review process. Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based is the Monterey County Planning and Building Inspection Department, Coastal Office, located at 2620 First Avenue, Marina. No facts,

reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines and prepared a Mitigation Monitoring Plan pursuant to Section 21081.6 of the Public Resources Code. The Initial Study and the Mitigation Monitoring Plan provided substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on June 21, 2001. All comments on the Initial Study have been received and considered as well as evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County’s independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

Jud Vandevere, Biological Consultant: Biological Report, November 4, 1999

EVIDENCE: Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Plan, and Conditions of Approval 2-17 attached hereto as Exhibits “D”, “E”, and “C” respectively.

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 the project file.

EVIDENCE: A Planning & Building Inspection staff visit conducted on June 17, 2002.

3. **FINDING:** For purposes of the Fish and Game Code, the project would have a potential for changes to fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project would cause changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations.

EVIDENCE: The project’s development of a mutual water system would potentially cause changes to the immediate environment in that Pajaro manzanita, a native plant life required to sustain habitat for wildlife.

EVIDENCE: The applicant shall pay the Environmental Document Fee, pursuant to Fish and Game Code Section 753.5, Title 14.

EVIDENCE: The Initial Study and Mitigated Negative Declaration contained in the project file.

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.

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 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 the project file.

5. FINDING: The subject property complies with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20, and any zoning violation abatement costs have been paid.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicate that no violations exist on subject property.

6. FINDING: The project, as approved by the Zoning Administrator, is appealable to the Board of Supervisors and the Coastal Commission.

EVIDENCE: Chapter 20.86 of the Monterey County Coastal Implementation Plan.

7. FINDING: The new biological resources mitigation (#2) is equivalent or more effective in mitigating or avoiding potential significant effects and in itself it will not cause any potentially significant on the environment.

EVIDENCE: North County Land Use Plan General Policy 2.3.2.6 and North County Coastal Implementation Plan Section 20.144.040.B.6.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Coastal Administrative Permit be granted as shown on the attached sketch and subject to the following conditions:

1. Coastal Administrative Permit to allow for: a mutual water system connecting to an existing well for seven (7) future connections for seven individual parcels; and two water storage tanks (10,000 gallon capacity each). The primary parcel for the project is fronting on and northerly of Hidden Valley Road at 345 Hidden Valley Road (APN: 129-161-041-000) North County area, Coastal Zone. 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 Department)**

Prior to the Issuance of Permits:

2. The applicant shall record a notice which states: "An Administrative Permit (Resolution 990053) was approved by the Zoning Administrator for Assessor's Parcel Numbers: 129-161-041-000, 129-162-001-000, 129-162-002-000, 129-151-007-000, 129-151-055-000, 129-152-007-000, 129-152-008-000 on July 11, 2002.

The permit was granted subject to **20** 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)**

3. The property owner shall enter into an agreement with the County to implement the mitigation-monitoring plan adopted for this project and pay the applicable fee. **(Planning and Building Inspection)**
4. A scenic easement shall be conveyed to the County over those portions of the property (APN 129-161-041-000) where maritime chaparral environmentally sensitive habitat exists. The scenic easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection Department / Mitigation Measure #2)**
5. The water system improvements shall be designed to meet the standards as found in Chapter 15.04 Titles 17 and 22 California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) the improvements. **(Environmental Health)**
6. The water system shall be designed to meet fire flow standards as required and approved by the North County Fire Department. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the North County Fire Department prior to installation or bonding of water system improvements. **(Environmental Health)**
7. The developer shall install or bond the water system improvements to and within the project's 7 parcels and any appurtenances needed prior to the issuance of building permits for any of the seven individual parcels. The water improvements shall only be installed or bonded after the Division of Environmental Health has approved the engineered designs. **(Environmental Health)**
8. The applicant shall provide to the Water Resources Agency information on the water system to serve the project including the location of all water wells on the property, any well logs available and the number of current hookups. **(Water Resources Agency)**
9. Design the water system improvements to meet fire flow standards as required by the North County Fire District. Water storage shall be 30,000 gallons. Water main sizes and hydrant locations shall be determined by the North County Fire District. **(North County Fire District)**
10. Protective fencing shall be placed around protected trees and other vegetation near the areas of construction. The removal of manzanita is neither allowed nor permitted through this approval. Prior to issuance of grading/building permits the applicant shall submit photos verifying protective measures. **(Planning and Building Inspection)**
11. An erosion control plan shall be implemented. The plan shall be prepared and submitted to the Director of Planning and Building Inspection for review and approval. **(Planning and Building Inspection)**

12. 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 of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, 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)**
13. The applicant shall pay the appropriate financial contribution in accordance with Ordinance 4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address ground water overdraft and water resources in the project area. The fees shall be paid prior to issuance of building permits. **(Planning and Building Inspection Department / Mitigation Measure #3)**

Prior to Final Building Inspection:

14. The water tanks shall be painted an earth tone color subject to the approval from the Director of Planning and Building Inspection and verified by photos. **(Planning and Building Inspection)**
15. The tank site shall be landscaped. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the North County Implementation Plan Development Regulations is available in brochure form (*Suggested Native Species Landscaping List - North County Coastal Zone*) from the Planning and Building Inspection Department. At least three weeks prior to final, three 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 to 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 materials. Landscaping shall be installed prior to final inspection. **(Planning and Building Inspection Department / Mitigation Measure #1)**

Continuous Permit Conditions:

16. A new water system permit shall be obtained from the Division of Environmental Health prior to issuance of a building permit on any of the seven individual parcels. **(Environmental Health)**
17. Due to the limitations of well production (13 GPM), the water system shall be limited to a maximum of eight (8) connections if established as a non-metered system, or twelve (12) connections if metered per Title 22 California Code of Regulations. **(Environmental Health)**
18. 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. **(Planning and Building Inspection)**
19. The property owner shall provide adequate access to the water tank site subject to the approval of the Director of Public Works. **(Planning and Building Inspection; Public Works)**

- 20. The connection may be made only to existing legal lots, or those created through minor or standard subdivision approval. **(Planning and Building Inspection Department)**

PASSED AND ADOPTED this 11th day of July, 2002.

DALE ELLIS, AICP
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

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

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

- 1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

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