

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 000399

A. P. # 417-021-004-000

In the matter of the application of
Palo Corona Ranch (PLN000399)

FINDINGS AND DECISION

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit to open and permanently use an existing illegally-built road to bypass a highly erodable and steep portion of an existing legal road which will be restored, and a Coastal Development Permit for development on slopes in excess of 30%, located on the Palo Corona Ranch, approximately six miles south east of Carmel and 3.5 miles east of Highway 1 along the ridge between Doud and Las Garza Creeks at approximately 3,000 feet elevation, Big Sur area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on June 12, 2003.

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

FINDINGS AND EVIDENCE

1. **FINDING:** The Project, as conditioned is consistent with the applicable plans and policies of the Big Sur Coast Land Use Plan and Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for resource conservation.

EVIDENCE: (a) Planning and Building Inspection staff have 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. Planning and Building Inspection staff have 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 designates this area as appropriate for resource conservation.

(b) Project planner conducted an on-site inspection on February 11, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(c) The parcel is zoned Watershed and Scenic Conservation Residential, 40 acres per unit, Design Control District, Coastal Zone ["WSC/40-D (CZ)]."

(d) The Big Sur Coast Land Use Advisory Committee recommended approval of the project by a vote of 5-0. LUAC meeting minutes dated March 25, 2003.

(e) 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 PLN000399.

2. **FINDING:** 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 costs, if any, have been paid. Although the subject road portion was built without the benefit of a permit, a violation case was never formalized or filed. The Combined Development Permit being applied for will remedy this unpermitted development.
- EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records. A previously reported violation of illegal grading was resolved by restoration. The case was closed.
- (b) Violation File 88-309:D
3. **FINDING:** 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, Public Works Department, Water Resources Agency, Environmental Health Division, and CDF Carmel Hill. The respective departments and 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.
4. **FINDING:** The site is suitable for the use proposed.
- EVIDENCE:** (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, and CDF Carmel Hill. Conditions recommended have been incorporated.
- (b) Initial Study and Negative Declaration prepared for the project contained in project file PLN000399.
- (c) Staff conducted an on-site visit on February 11, 2003 to verify that the site is suitable for this use.
5. **FINDING:** The project will constitute development on cross slopes in excess of 30%. There is no feasible alternative which would allow development to occur on slopes of less than 30%.
- EVIDENCE:** (a) Given the topography of the project site, it is unfeasible to build a road on slopes exclusively under 30%. The project will replace an existing legally built road which is on cross slopes in excess of 30% and has a grade that exceeds 30%. The unpermitted road is an environmentally superior alternative to the exiting road because although sited on cross slopes exceeding 30%, the grade of this road segment typically will not exceed 10% thereby minimizing erosion.
- (b) Application material and plans submitted by the applicant contained in project file # PLN000399.

(c) Staff site inspection on February 11, 2003.

- 6. FINDING:** On the basis of the whole record before the Zoning Administrator, there is no substantial evidence that the 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 and does not have a significant effect on the environment. Staff accordingly prepared a negative declaration. The Initial Study is on file in the offices of Planning and Building Inspection and is hereby incorporated by reference. (PLN000399). Conditions of approval have been imposed on the project.

(b) Evidence that has been received and considered includes:

- i. The application/plans
- ii. Erosion Control and Revegetation Plan, Preliminary Archaeological Reconnaissance Report and Biological Assessment submitted by applicant.
- iii. Staff report that reflect the County's independent judgment
- iv. Information and testimony presented during public hearings

These reports are on file in the offices of Planning and Building Inspection Department (File Reference PLN000399) and are incorporated by reference herein.

(c) The negative declaration was circulated for public review from April 11, 2003 to May 12, 2003. No comments from the public were received

(d) The Monterey County Planning and Building Inspection Department, located at 2620 First Avenue, Marina, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

- 7. FINDING:** 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 subject property is not described as an area where the Local Coastal Program requires access.

(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 2, the Shoreline Access Map, of the Big Sur Coast Land Use Plan.

(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(d) Staff site visit on April 11, 2003.

- 8. FINDING:** The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE: (a) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, it is the decision of the Zoning Administrator of the County of Monterey that said Negative Declaration be adopted and that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit consists of a Coastal Development Permit to open and permanently use an existing illegally-built road to bypass a highly erodible and steep portion of an existing legal road which will be restored and a Coastal Development Permit for development on slopes on excess of 30%. The property is located on the Palo Corona Ranch approximately six miles South East of Carmel and 3.5 miles East of Highway 1 along the ridge between Doud and Las Garzas Creeks at approximately 3,000 feet elevation. (Assessor's Parcel Number 417-021-004-000) Big Sur Coast area, Coastal Zone. 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)**
2. The applicant shall implement the Erosion control and Revegetation Plan prepared by Paul Kephart - Rana Creek Habitat Restoration dated November 2002. The plan is contained in the project staff report and is incorporated herein by reference. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

3. The applicant shall record a notice which states: "A permit (Resolution #000399) was approved by the Zoning Administrator for Assessor's Parcel Number 417-021-004-000 on June 12, 2003. The permit was granted subject to 10 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. A notice shall be recorded with the Monterey County Recorder which states: "An Erosion Control and Revegetation Plan has been prepared for this parcel by Paul Kephart of Rana Creek Habitat Restoration, dated November, 2002, and is on record in the Monterey County Planning and Building Inspection Department Library. The Erosion Control and Revegetation Plan includes a three-year minimum restoration monitoring period. Revegetation of the abandoned road on the parcel must be in full accordance with the Erosion Control and Revegetation Plan, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)**

5. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
6. Prior to issuance of any grading or building permits, a road drainage and improvement plan shall be prepared by a registered civil engineer. The plan shall be submitted to the Water Resources Agency for approval. **(Water Resources Agency)**

Prior to Final Inspection:

7. The applicant shall submit to the Director of Planning and Building Inspection Department for approval, evidence that the Erosion Control and Revegetation Plan has been implemented in accordance with the approved specifications and long-term monitoring program. Evidence shall be in the form of a final report by consulting biologist Paul Kephart or other qualified biologist and must include photographs of the revegetation efforts. **(Planning and Building Inspection)**

Continuous Permit Conditions:

8. The proposed road shall not be used as residential access. **(CDF Carmel Hill)**
9. 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)**
10. If during the course of construction activity on the subject property, cultural, archaeological, historical, 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 it can be evaluated by a qualified professional archaeologist. 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)**

PASSED AND ADOPTED this 12th day of June, 2003.

Original Signed By:

MIKE NOVO
ZONING ADMINISTRATOR

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