

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030609

A. P. # 419-221-014-000

In the matter of the application of
Constance Hillis (PLN030609)

FINDINGS & 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 Development Permit for the construction of an 848 square foot caretaker's unit with an attached 80 square foot deck, septic system; grading; demolition of an existing shed; a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; a Coastal Administrative Permit for a new well; and Design Approval. The project is located at 47702 Middle Road, Clear Ridge, Big Sur area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on August 26, 2004.

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

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

EVIDENCE: (a) Land Use. Constance Hillis own a 20.5-acre parcel with an existing 900 square foot single-family residence. The site is located approximately 2.0 miles northwest of Highway One with a gated access to a private, unpaved road that crosses the Big Sur River (Clear Ridge Road) and ultimately accesses Middle Road.
(b) Zoning. The site is zoned Watershed Scenic Conservation with a 40-acre minimum lot size with a Design Control Overlay, Coastal Zone [WSC/40-D (CZ)].
(c) Plan/Code Conformance. The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with the:

- (1) Big Sur Coast Land Use Plan
- (2) Monterey County Coastal Implementation Plan - Part 3 (Chapter 20.145);
and
- (3) Monterey County Coastal Implementation Plan – Part 1 (Zoning Ordinance - Title 20), which establishes regulations for:
 - Watershed Scenic Conservation (Chapter 20.17).
 - Design Control (Chapter 20.44).
 - Caretaker Units (Chapter 20.64.030)
 - Development in Environmentally Sensitive Habitat (Chapter 20.66.020).

With the recommended conditions, there would be no conflict or inconsistencies with the regulations of these plans or policies. These conditions generally require mitigation above what is designed into the project in order to address specific policy thresholds

related to visual resources and environmentally sensitive habitat as detailed in the following findings and evidence.

(d) Permits. The project generally involves an application for permits to develop an 848 square foot caretaker unit and to drill a new well. Grading involves about 10 yards of cut and fill. Entitlements for the proposed project include:

- Coastal Development Permit to develop a caretaker unit with an attached 80 square foot deck, a 1-car carport, installation of a new septic system; grading (10 cubic yards); improvement to an existing access road; and demolition of an existing shed.
- Coastal Administrative Permit to install a well.
- Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (Wetland).
- Design Approval.

(e) Scenic Resources. The Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan (CIP) provide thresholds for development with the intent of preserving Big Sur's scenic resources. Staking and flagging on the site shows that existing topography and vegetation screen the proposed structure from any public viewing area. In addition, staff determined that there would be no impact to neighbor views and the new light source would be minimal based on standard lighting requirements. Therefore, there is no potential impact on aesthetics resources.

(f) Environmentally Sensitive Habitat (ESHA). As conditioned, the proposed project is consistent with regulations for development adjacent to environmentally sensitive habitats (Section 20.145.040 CIP). The following biological assessments were prepared for the subject site in accordance with Section 20.145.040.A CIP:

- (1) *Biological Assessment*. Nicole Nedeff, Consulting Ecologist. September 24, 2003.
- (2) *Supplemental Biological Assessment*. Nicole Nedeff, Consulting Ecologist. February 29, 2004.

Condition 16 requires a conservation easement to preserve sensitive habitat of the area in accordance with Section 20.145.040.B.2 CIP.

(g) Land Use Advisory Committee: The Big Sur Coast Land Use Advisory Committee voted 5-0-1 to recommend approval of the project with one change:

- That the carport be consistent with the style of the main unit (**Condition 17**).
- LUAC meeting minutes dated December 9, 2003.

(h) Site Visits. County staff conducted on-site inspections to review that the subject parcel conforms to the plans listed above.

(i) Application. 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 PLN030609.

2. FINDING: SITE SUITABILITY: The site is physically suitable for the proposed use.

EVIDENCE: (a) Site Inspection. The project planner conducted an on-site inspection to assess work completed prior to issuance of a permit and remaining work to be completed.

(b) Agency Review. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Agriculture Commissioner, Parks Department, and Environmental Health Division. The project has also been reviewed by California Department of Forestry

(CDF), Department of Fish and Game, and Coastal Commission. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated into the project conditions.

(c) Professional Reports. Reports by a biologist, archaeologist and engineer indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the proposed use:

- *Geologic and Soil Engineering Report*. Landset Engineers, Inc (Brian E. Papurello, CEG and Charles E. Potter, RCE). September 16, 2003.

- *Biological Assessment*. Nicole Nedeff, Consulting Ecologist. September 24, 2003.

- *Supplemental Biological Assessment*. Nicole Nedeff, Consulting Ecologist. February 29, 2004.

3. FINDING: NO VIOLATION: 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. A violation does not exist on the property. Zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist on the property and that all zoning abatement costs, if any have been paid.

4. FINDING: CEQA/MITIGATED NEGATIVE DECLARATION: On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

EVIDENCE: (a) Initial Study. As part of Monterey County Planning and Building Inspection Department's permit process, staff prepared an Initial Study pursuant to CEQA. The Initial Study identified potentially significant effects to aesthetic and biological resources, but applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference. (PLN030609/Hillis). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

(b) Mitigated Negative Declaration. On July 27, 2004, County staff completed an Initial Study for the project (PLN030609/Hillis) in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on July 28, 2004, noticed for public review, and circulated to the State Clearinghouse from July 28 to August 26, 2004. The evidence in the record includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or

discussed 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:

- *Geologic and Soil Engineering Report*. Landset Engineers, Inc (Brian E. Papurello, CEG and Charles E. Potter, RCE). September 16, 2003.
- *Biological Assessment*. Nicole Nedeff, Consulting Ecologist. September 24, 2003.
- *Supplemental Biological Assessment*. Nicole Nedeff, Consulting Ecologist. February 29, 2004.

The Zoning Administrator determines that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance. Therefore, a Mitigated Negative Declaration is hereby adopted by the Zoning Administrator.

(c) Mitigation Monitoring Program. A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. The applicant/owner must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval (**Condition 4**).

(d) Comments. No comments have been received. No issues remain.

(e) Public Testimony. The Zoning Administrator considered public testimony and the initial study at hearings on August 26, 2004.

5. FINDING: FISH & GAME FEE: For purposes of the Fish and Game Code, the project would potentially have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends.

EVIDENCE: (a) De Minimis Finding. The site includes rare plant communities that qualify as resources listed A-G listed in the Initial Study as reviewed and agreed by the State Department of Fish and Game and the U.S. Department of Fish and Wildlife. Biological assessments determine that potential impacts can be mitigated through restoration/replacement of habitat. Therefore, the project is not De Minimis and is subject to the required fee (**Condition 3**).

(b) Initial Study and Negative Declaration contained in File No. PLN030609/Hillis.

6. 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). The proposed project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976 and Section 20.145.150 of the Big Sur Coastal Land Use Plan and Coastal Implementation Plan.

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.

7. **FINDING: APPEAL:** The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** (a) Board of Supervisors. Section 20.86.030 of the Monterey County Zoning Ordinance.
- (b) Coastal Commission. Section 20.86.080.A of the Monterey County Zoning Ordinance.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 26th day of August 2004.

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.