

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 040203

A. P. # 159-021-007-000

In the matter of the application of

State of California, Department of Parks and Recreation

FINDINGS & DECISION

For a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinance) Chapter 20.70 (Coastal Development Permits) of the Monterey County Code, to allow drilling for a test well boring to an approximate depth of 400 feet within 100 feet of environmentally sensitive riparian habitat. The property is located at Andrew Molera State Park, on the east side of Highway One off East Molera Road, Big Sur Area, Coastal Zone. The application came on regularly for a meeting before the Zoning Administrator on October 28, 2004.

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

FINDINGS OF FACT

FINDING: CONSISTENCY: The Project, as conditioned is consistent with applicable plans and policies, the Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, the Big Sur River Protected Waterway Management Plan, and the Monterey County Zoning Ordinance (Title 20).

EVIDENCE:

- (a) Plan Conformance. PBI staff has 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), and the Monterey County Zoning Ordinance (Title 20). Staff has determined that the project is consistent with these policies and standards as they apply to development of test wells.
- (b) Site Visit. Project planner conducted an on-site inspection on May 26, 2004 to verify that the project on the subject parcel conforms to the plans listed above.
- (c) Land Use. The project consists of a test well boring and is allowed, in accordance with Section 20.38.040.C.
- (d) Zoning Consistency. The parcel is zoned Open Space Recreation, Coastal Zone ("OR (CZ)"). The project is in compliance with Site Development Standards for an Open Space District in accordance with Section 20.38.060.
- (e) Big Sur River Waterway. The subject property is located within the Big Sur River Waterway Management Plan area, whose objective is to maintain and enhance the river and watershed. Uses on this property include open space recreational uses. The project consists of a boring for a test well. The development does not occur within the riparian corridor or floodplain of the Big Sur River and does not increase water use or impact water quality. It does not propose to transport water outside the water basin. The project is consistent with the Big Sur River Waterway Plan.

- (f) Environmentally Sensitive Habitat (ESHA). The project occurs within 100 feet of an intermittent stream containing riparian habitat, which is considered environmentally sensitive habitat. See Finding #6.
- (g) Land Use Advisory Committee (LUAC). The Big Sur Coast Land Use Advisory Committee reviewed the project and recommended approval by a vote of 3 to 0. LUAC meeting minutes dated June 22, 2004. Concerns and recommendations include:
- Compatibility of Management Plans. The LUAC noted a concern over compatibility of the project with long term management plans covering the Big Sur River Basin and nearby State Park units. The General Plan/EIR for the Point Sur Historic Park notes that water from Andrew Molera wells may serve facilities at this new park, which lies outside of the Big Sur River watershed. Land Use Plan (LUP) policies for the Big Sur area prohibit any new water system and the expansion of existing water systems which transport water out of the watershed of any perennial stream (LUP Policy 3.4.3.A.4). The Big Sur River Waterway Management Plan notes that historically, wells near the mouth of the Big Sur River did supply the Point Sur Naval Station when it was in use. According to the applicant, one of the existing wells at Andrew Molera State Park currently serves the Naval Facilities. However, the subject project only allows drilling for a test well to determine feasibility for a future well. In order to become a permanent well and to be used, additional permits are required. A determination of usage will be made at that time. A condition has been incorporated stating that additional permits are required for the well to be used and to become permanent.
 - Big Sur River Management Plan. The LUAC recommended that the Big Sur River Waterway Management Plan should be consulted. Staff has reviewed the proposed project for consistency with relevant plans, including the Big Sur River Management Plan. The project is consistent with applicable policies.
 - Separate Permits of Future Development. The LUAC recommended that future development should require a separate permit. Any additional or future development is subject to permit requirements of the Local Coastal Program, including allowing the test well to become permanent replacement well. A condition has been incorporated stating that additional permits are required for the well to be used and to become permanent.
- (h) 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 PLN040203.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and California Department of Forestry and Fire. Conditions recommended have been incorporated.
- (b) Technical reports by outside biology 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. Biological recommendations have been incorporated as part of the project and includes proper disposal of tailings,

erosion control and minimizing disturbance and noise. Agency staff concurs. A condition has been incorporated to ensure that biological specifications have been implemented.

- (c) Biological Assessment prepared by Jeffrey Frey dated May 28, 2004. Report is in Project File PLN040203.
- (d) Staff conducted on-site visit on May 26, 2004 to verify that the site is suitable for this use.
- (e) Application plans and materials in Project File PLN040203.

FINDING: CEQA (Exempt): The project is exempt from environmental review.

- EVIDENCE:**
- (a) CEQA Guidelines lists classes of projects which have been determined to not have a significant effect on the environment and are therefore exempt from the provisions of CEQA. Section 15303 (Class 3) categorically exempts the construction of new, small facilities or structures. Section 15304 (Class 4) categorically exempt minor alterations to land.
 - (b) The project consists of a boring for a test well. No sensitive species are adversely affected by the project. No intensification and no tree removal are proposed.
 - (c) Site visits by staff and technical reports submitted by the applicant have determined that there are no unusual circumstances associated with the project or the property that would require environmental review. No sensitive species will be impacted. Technical reports include Biological Assessment prepared by Jeffrey Frey dated May 28, 2004.
 - (d) No adverse environmental effects were identified during staff review of the development application during a site visit on June 22, 2004.

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, and all 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.
 - (b) Staff site visit on May 26, 2004.

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). 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 part of Andrew Molera State Park where the Local Coastal Program requires access. Andrew Molera State Park is included in Figures 2 and 3, the Shoreline Access and Trails Map, of the Big Sur Coast Area Land Use Plan, which designates areas for trails or shoreline access.
 - (b) Andrew Molera State Park currently provides shoreline access and public trails consistent with the Big Sur Coast Land Use Plan.
 - (c) Staff site visit on May 26, 2004.

FINDING: ENVIRONMENTALLY SENSITIVE HABITAT (ESHA): The subject project is consistent with Big Sur Coast Land Use Plan (LUP) policies protecting environmentally sensitive habitat.

- EVIDENCE:**
- (a) The project site is located within 100 feet of an intermittent creek containing riparian habitat, which is considered environmentally sensitive habitat according to Big Sur Coast Land Use Plan. The creek cuts through a drainage below the proposed site. A biological report prepared by Jeff Frey concluded that the development would not have an adverse effect and recommended biological specifications that have been incorporated into the project. They include proper collection and disposal of tailings and water, revegetation of disturbed areas, erosion control measures, staging equipment on the road to minimize disturbance, and scheduling work to occur after August 15 and prior to March 1 to avoid any potential adverse effect on breeding birds or mammals. A condition has been incorporated to ensure the measures are implemented. The proposed project is consistent with policies protecting environmentally sensitive habitat.
 - (b) LUP Policy 3.3.3.A.3 requires development to minimize erosion, runoff and water pollution. Biological specifications incorporated as part of the project include collection tailings and water and off-site disposal, revegetation of disturbed areas with native vegetation and erosion control measures to ensure tailings do not flow towards the creek. The project with the specifications minimizes erosion and runoff.
 - (c) LUP Policy 3.3.3.A.4 requires a 150 foot setback from streambanks unless a narrower buffer is demonstrated to be sufficient to protect the habitat. The proposed test boring site is located approximately 40 feet from the intermittent creek. Measures have been incorporated to control erosion and runoff during construction and ensure protection of the habitat, consistent with this policy.
 - (d) Biological Assessment prepared by Jeffrey Frey dated May 28, 2004. Report is in Project File PLN040203.
 - (e) Staff site visit on May 26, 2004.
 - (f) Application plans and materials in Project File PLN040203.

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) The project was reviewed by Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department, and California Department of Forestry and Fire. 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.
 - (b) Staff site visit on May 26, 2004.
 - (c) Application plans and materials in Project File PLN040203.

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

- EVIDENCE:** (a) Section 20.86.030.A of the Monterey County Coastal Implementation Plan (Part 1).
(b) Development within 100 feet of Environmentally Sensitive Habitat is a Conditional Use. Conditional Uses are appealable to the California Coastal Commission. Section 20.86.080.A 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 application for a Coastal Development Permit be granted as shown on the attached sketch and subject to the attached conditions:

PASSED AND ADOPTED this 28th day of October, 2004.



MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

NOV 15 2004

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

OCT 18 2004

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.

Monterey County Planning and Building Inspection
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: Andrew Molera State Park

File No: PLN040203

APNs: 159-021-007-000

Approval by: Zoning Administrator

Date: October 28, 2004

**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</i>	<i>Impact Addressed, 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</i>
1		<p>SPECIFIC USES ONLY This Coastal Development Permit (PLN040203/ Andrew Molera State Park) allows drilling for a test well to an approximate depth of 400 feet within 100 feet of environmentally sensitive riparian habitat. The site is located about 30 feet east of East Molera Road adjacent to a concrete water tank. The project is located at Andrew Molera State Park (Assessors Parcel Number 159-021-007-000), on the east side of Highway One off East Molera Road, Big Sur Area, Coastal Zone. 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)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

2	<p>NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 040203) was approved by the Zoning Administrator for Assessor's Parcel Number 159-021-007-000 on October 28 2004. The permit was granted subject to 6 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)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to start of construction.
3	<p>PERMIT REQ.S FOR PERMANENT WELL This permit (PLN040203) allows drilling for a test well only to determine feasibility for a well site. Prior to creating a permanent replacement well, the applicant shall apply for and obtain all necessary permits consistent with the Local Coastal Program requirements. (Planning and Building Inspection)</p>	Apply for and obtain necessary permits.	Owner/ Applicant	Prior to usage or construction of a permanent well
4	<p>BIOLOGICAL SPECIFICATIONS The applicant shall submit evidence that the specifications of the Biological Assessment prepared by Jeff Frey dated May 28, 2004 have been implemented to the satisfaction of the Director of Planning and Building Inspection. (Planning and Building Inspection)</p>	Submit photo documentation and/or other evidence to the Director of Planning and Building Inspection Department	Owner/ Applicant	Prior to start of construction.
5	<p>ABANDONED WELLS Destroy the existing abandoned well(s) according to the standards found in State of California Bulletin 74 and all its supplements, and Chapter 15.08 of the Monterey County Code. The well shall not be considered abandoned if satisfactory evidence is provided that the well is functional, is used on a regular basis, and does not act as a conduit for contamination of groundwater. (Environmental Health)</p>	Prior to destruction, a permit for the destruction of the well(s) shall be obtained by a CA licensed well contractor from the Division of Environmental Health. After destruction submit the Well Completion Report to the Division of Environmental Health	CA Licensed Engineer /Owner/ Applicant	Prior to issuance permits or start of construction

6		WELL CONSTRUCTION PERMIT Obtain a water well drilling permit from the Division of Environmental Health and construct the well. (Environmental Health)	Submit the Well Completion Report to the Division of Environmental Health.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of a permits or start of construct ion	
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SITE PLAN

LOCATION OF PROPOSED WELL - ANDREW MOLERA STATE PARK

