

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 040363

A.P. # 133-172-013-000

FINDINGS AND DECISION

In the matter of the application of
National Refractories & Minerals Corporation (PLN040363)

for a Coastal Development Permit in accordance with Title 20 (Zoning) Chapter 20.76 (Coastal Administrative Permits) of the Monterey County Code, to allow for the demolition and removal of the following structures and equipment located within the Moss Landing Commercial Park (formerly known as National Refractories and Minerals Corporation): a) interior and exterior of high purity building, b) interior and exterior of feed building/kiln 4a, c) interior and exterior of filter building, d) interior and exterior of filter press building, e) interior of coke mill building, and f) interior of batching and grinding building. The property is located at the intersection of Highway 1 and Dolan Road, Moss Landing, North County area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on September 30, 2004.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** – The National Refractories Coastal Administrative Permit (PLN040363), as described in Condition #1, and as conditioned, is consistent with the plans, policies, requirements, and standards of the Local Coastal Program (LCP). The LCP for this site consists of the North County Land Use Plan (includes Moss Landing Community Plan), North County Coastal Implementation Plan (Part 2), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance).

EVIDENCE: (a) The application and plans submitted for the Coastal Administrative Permit in project file PLN040363 at the Monterey County Planning and Building Inspection Department.

(b) The property is located at the intersection of Highway 1 and Dolan Road, Moss Landing, North County area in the Coastal Zone. The parcel is zoned “HI (CZ)” (Heavy Industrial, in the Coastal Zone). The proposed demolition meets the site development standards for the Heavy Industrial Zoning District.

(c) The project qualifies for a waiver of the requirement of a General Development Plan pursuant to Section 20.28.030.E of Title 20 Zoning Ordinance. The scope of the project is limited to the demolition of six structures within an already disturbed area. Such demolition is a necessary prerequisite action in order to perform environmental remediation and hazardous material cleanup. The project, as conditioned, will not affect the existing infrastructure supporting current or future coastal dependent uses, potential adaptive reuse of existing structurally sound structures or the historic integrity of potentially historic structures. The

project will have no potentially significant adverse environmental impacts and requiring the General Development Plan will not further the purpose set forth in Section 20.28.030. Future uses and structures will require subsequent Coastal Development Permits and will be subject to the General Development Plan requirement.

(d) The project is consistent with policies of the North County Land Use Plan dealing with archaeological/historic resources (Chapter 2.9). The scope of the project is limited to the demolition of six structures within an already disturbed area. A condition of approval will require that demolition work be stopped in the event that archaeological resources are discovered. A Historical and Architectural Evaluation was prepared for the demolition project by Kent Seavey (July 1, 2004). The evaluation concluded that the six structures to be affected by the project are not historic and demolition would not impact the potential historic integrity of the industrial complex as a whole. A condition of approval will require that the project adhere to the recommendations contained in this evaluation.

(e) The project is consistent with policies of the North County Land Use Plan dealing with traffic circulation (Chapter 5.2). A Traffic Impact Assessment was prepared by Higgins Associates (June 9, 2004). The assessment concluded that the equipment removal and hauling operation will have an insignificant traffic impact. The proposed truck route and truck traffic were reviewed and approved by Monterey County Public Works and the California Department of Transportation – District 5. No truck traffic will occur on Highway 1 or at the intersection of Dolan Road and Highway 1. Public Works has conditioned the project where appropriate.

(f) The project is consistent with policies of the North County Land Use Plan dealing with environmentally sensitive habitat (Chapter 2.3). Based on staff's site visit, the area of demolition is limited and will not occur near environmentally sensitive habitat, including Elkhorn and Moro Cojo Sloughs.

(g) The project is consistent with policies of the North County Land Use Plan dealing with water resources (Chapter 2.5). The proposed demolition was reviewed by the Division of Environmental Health and the Water Resources Agency and is consistent with regulations pertaining to hazardous materials and water quality. The project will be required to retain all project-related runoff onsite.

(h) The project planner conducted a site visit on April 27, 2004 to verify that the proposed project complies with the LCP. The proposed project, as designed, will not have a significant adverse effect on the public viewshed.

(i) The North County - Coastal Land Use Advisory Committee reviewed and recommended approval (6 - 0 vote) of the Coastal Administrative Permit on July 19, 2004 with no changes.

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

EVIDENCE: (a) The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, North County Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, Monterey County Health Department, Monterey County Sheriff Department, California Coastal Commission, California Department of Transportation District 5, Monterey Bay

Unified Air Pollution Control District and California Department of Fish and Game. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated as project conditions.

(b) The project planner conducted a site visit on April 27, 2004 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

3. **FINDING: PUBLIC ACCESS** – The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impacts 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 and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(b) Staff site visit on April 27, 2004.

4. **FINDING: CEQA (Exempt)** – The proposed project will not have a significant environmental impact.

EVIDENCE: (a) Sections 15301 and 15330 of the CEQA Guidelines categorically exempt the proposed development from environmental review. The proposed demolition qualifies for these categorical exemptions since it will involve negligible or no expansion of an existing use and constitutes a minor cleanup action taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance.

(b) No adverse environmental impacts were identified during staff review of the project application.

(c) There are no unusual circumstances related to the project or property.

5. **FINDING: NO VIOLATIONS** – The subject property is in substantial compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Section 20.28.020 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicate that no existing violations exist on subject property.

(b) There may be several un-permitted uses occurring on the site although evidence to support this conclusion has not been verified. The subject permit is limited to the demolition and removal of certain structures and equipment, which will not impact any future development potential. As a condition of approval, any un-permitted uses found on the site will not be vested by this permit and any future development applications considered on the site will be deemed incomplete unless and until all un-permitted uses are either permitted or removed from the site.

6. **FINDING: HEALTH AND SAFETY** – The establishment, maintenance, and operation of the proposed development applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
EVIDENCE: Preceding findings and supporting evidence.
7. **FINDING: APPEALABILITY** – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.
EVIDENCE: Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance.

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application be granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 30th day of September 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 Monterey.

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