### JEFF MAIN ZONING ADMINISTRATOR

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### COUNTY OF MONTEREY STATE OF CALIFORNIA

RESOLUTION NO. 060356

A.P. # 419-211-021-000 & 419-211-022-000

### FINDINGS AND DECISION

## In the matter of the application of **Fernwood Resort LLC (PLN060356)**

for a Coastal Development Permit in accordance with Title 20 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.145 (Coastal Development Permits) of the Monterey County Code, to allow trenching and minor grading within 100 feet of riparian environmentally sensitive habitat (Big Sur River) in order to upgrade existing water and electrical hookups located at 14 RV sites. The project also includes remodeling an existing toilet/shower facility and the replacement of six RV/cabins to include septic, electrical and water hookups in order to clear Code Violation CE050221. The property is located at 47200 & 47205 Highway 1, Big Sur, Coastal Zone, and came on regularly for hearing before the Zoning Administrator on March 8, 2007.

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

### **FINDINGS OF FACT**

# 1. FINDING: CONSISTENCY – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Big Sur Land Use Plan, Monterey County Coastal Implementation Plan, Part 3 (Chapter 20.145), and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for development.

- **EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - (b) The property is located at Highway One, Big Sur (Assessor's Parcel Number 419-211-022-00 0), Big Sur Land Use Plan. The parcel is zoned Visitor Serving Commercial, Coastal Zone ("VSC (CZ)"). With the Coastal Development Permit approval, and compliance with conditions (specifically the General Development Plan-Condition #4), the project would then be consistent with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, and is therefore suitable for the proposed development.
  - (c) The project planner conducted a site inspection on February 15, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
  - (d) The project was <u>not</u> referred to the Big Sur Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by

the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15301(a) and (b). The repairs involved negligible or no expansion of use beyond that of existing. Although Section 20.145.040.c requires a Coastal Development Permit because the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River), staff made the decision not to send the project to the LUAC because the development to upgrade existing water and electrical hookups did not impact any habitat areas.

(e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060356.

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

**EVIDENCE:** (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, California Department of Forestry (Big Sur), Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- (b) A technical report by an outside wastewater engineering consultant indicated that there are no physical or environmental constraints that would indicate that the wastewater systems could not be replaced. County staff concurs. The following report has been prepared:
  - "Draft Evaluation of Wastewater Systems at Fernwood Inn" (*LIB060436*) prepared by Fall Creek Engineering, Inc., dated October 17, 2005.
- (c) Staff conducted a site inspection on February 15, 2007 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN060356.
- 3. **FINDING:** CEQA (Exempt): The project is categorically exempt from environmental review and no unusual circumstances exist on the property.
  - **EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15301 (Class 1) categorically exempts minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that of existing.
    - (b) 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 15301(b) (Class 1), categorically exempts existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. Pursuant to Section 20.145.040.c, the disturbed area is located within 100 feet of Environmentally Sensitive Habitat (Big Sur River). However, a staff site visit determined that the trenching and minor grading in the campground upgraded existing facilities and did not impact any sensitive habitat, and therefore can be exempt.

- (c) No adverse environmental effects were identified during staff review of
  - the development application during a site visit on February 15, 2007.
- (d) See preceding and following findings and supporting evidence.

4. FINDING: VIOLATION - The subject property is not 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 exists on the property; however, if approved, the proposed project will remove the violation.

**EVIDENCE:** (a) A site investigation and research of the subject property found that development (trenching and grading) within 100 feet of riparian environmentally sensitive habitat (Big Sur River) was done without the benefit of a Coastal Development Permit. The code violation also included the addition of approximately 30 park model trailers with electric, water and sewer connections, 10 tent cabins and possible grading which created an intensification of existing campground use. However, at an April 10, 2006, meeting it was determined that the applicants would remove 24 of the cabins from the site after having shown proof that six of the RV/cabins were replacements and the 10 tent cabins were existing. The project planner conducted a site inspection on February 15, 2007 to verify that the 24 cabins were removed.

- (b) Permit violation abatement cost, if any, will be paid as a condition of approval (Condition #5)
- (c) This permit approval is to abate Code Violation CE050221 only. No additional development, expansion or use, or additional physical improvements beyond that which is being approved with this permit will be allowed until the discretionary approval of the General Development Plan is obtained. (Condition #4)
- 5. 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 not indicated as part of any designated trails or shoreline access as shown in Figure 2, the Shoreline Access Map, and Figure 3, the Trails Plan in the Big Sur Land Use Plan.
    - (b) Although there is prescriptive right for access to the Big Sur River, no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
    - (c) Staff site visit on February 15, 2007.
- 6. 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) Preceding findings and supporting evidence.

- 7. **FINDING: APPEALABILITY -** The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.
  - **EVIDENCE:** (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan -Part 1 (Board of Supervisors).
    - (b) The project may be appealed to the California Coastal Commission pursuant to Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 because the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway One).

### DECISION

THEREFORE, it is the decision of said Zoning Administrator that said request for a Coastal Development Permit be approved as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 8th day of March, 2007.

. ZONING ADMINISTRATOR

### COPY OF THIS DECISION MAILED TO APPLICANT ON MAR 2 1 2007

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 MAR 3 1 2007

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, <u>if this is the final administrative decision</u>, 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 90<sup>th</sup> day following the date on which this decision becomes final.

### **NOTES**

1.

2.

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.

. 15.12

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 Salinas.

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

	Project Name FERNWOOD RESORT
Monterey County Resource Management Agency	File No: <u>PLN060356</u> APNs: <u>419-211-022-000</u>
Planning Department	Approved by: ZONING ADMINISTRATOR Date: MARCH 8, 2007
<b>Condition Compliance and/or Mitigation Monitoring</b>	Approved by: <u>Zonano Administratok</u> Dau. <u>Marcens, 2007</u>
<b>Reporting Plan</b>	

\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.

Permit	Mitig.	Conditions of Approval and/or Mitigation Measures and	Compliance or Monitoring Actions to be performed. Where applicable, a	Responsible Party for	Timing	Verification of
Cond. Number	Number	Responsible Land Use Department	certified professional is required for action to be accepted.	Compliance	Tuning	Compliance (name/date)
1		PBD029 - SPECIFIC USES ONLY	Adhere to conditions and uses specified	Owner/	Ongoing	
		This after-the-fact Coastal Development Permit (PLN060356)	in the permit.	Applicant	unless other-	
-		allows trenching and minor grading within 100 feet of			wise stated	· · · · ·
		riparian environmentally sensitive habitat (Big Sur River) in				
		order to upgrade existing water and electrical hookups				
	· .	located at 14 RV sites. The project also includes remodeling				
		an existing toilet/shower facility and the replacement of six			• •	
		RV/cabins to include septic, electrical and water hookups. in			•	
		order to clear Code Violation CE050221. The property is				
		located at 47200 & 47205 Highway 1, Big Sur (Assessor's				2 
		Parcel Numbers 419-211-021-000 & 419-211-022-000),		21 - 1 1		
		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		• ,		1
		satisfaction of the Director of RMA - Planning Department.				
		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				1 .
		other than that specified by this permit is allowed unless		. ·		· .
		additional permits are approved by the appropriate authorities.				· · · ·
ļ		[Resource Management Agency (RMA) - Planning			· · · · · · · · · · · · · · · · · · ·	
		Department]			· · · ·	

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			Compliance or Monitoring Actions			Verification
Permit :	Mitig.	Conditions of Approval and/or Mitigation Measures and	to be performed. Where applicable, a	Responsible		of
Cond.	Number	Responsible Land Use Department	certified professional is required for	Party for	Timing	Compliance.
Number	1 unioer		action to be accepted.	Compliance.		(name/date)
		PBD025 - NOTICE-PERMIT APPROVAL		Owner/	Prior to	
2.				Applicant	Issuance of	
		The applicant shall record a notice which states: "A permit	be lumished to RMA - FD	Applicant		
		(Resolution No. 060356) was approved by the Zoning Administrator for Assessor's Parcel Numbers 419-211-021-000			grading and	
					building	
		& 419-211-022-000 on March 8, 2009. The permit was granted			permits or	
	· .	subject to 11 conditions of approval, which run with the land. A			start of use.	
		copy of the permit is on file with the Monterey County RMA -				
		Planning Department." Proof of recordation of this notice shall				-
		be furnished to the Director of RMA - Planning Department				
· .		prior to issuance of building permits or commencement of the				
		use. (RMA - Planning Department)				
3.		PD014(C) - LIGHTING - EXTERIOR LIGHTING PLAN	Submit three copies of the lighting plans to	Owner/	Prior to the	· ·
		(BIG SUR)	the RMA - Planning Department for review	Applicant	issuance of	
		All exterior lighting shall be unobtrusive, down-lit, compatible	and approval. Approved lighting plans		building	
1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1		with the local area, and constructed or located so that only the	shall be incorporated into final building		permits.	
		intended area is illuminated and off-site glare is fully controlled.	plans.			
		Exterior lights shall have recessed lighting elements. Exterior				
		light sources that would be directly visible from critical				
		viewshed viewing areas, as defined in Section 20.145.020.V,				1999 - A. 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 1999 - 19
		are prohibited. The applicant shall submit three (3) copies of an				· ·
		exterior lighting plan which shall indicate the location, type, and				
		wattage of all light fixtures and include catalog sheets for each				
		fixture. The lighting shall comply with the requirements of the		1		
		California Energy Code set forth in California Code of				
		Regulations, Title 24, Part 6. The exterior lighting plan shall be				
		subject to approval by the Director of the RMA - Planning				1.1
		Department, prior to the issuance of building permits. (RMA-				
		Planning Department)				
	1		The lighting shall be installed and	Owner/	Ongoing	
		4	maintained in accordance with the	Applicant 36		
· ·			approved plan.			
			<b>FF</b>	,		
	,			1. A.		
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Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
4.		PDSP001 – GENERAL DEVELOPMENT PLAN	1) Submit a preliminary General	Owner/	1) 30 days	
		(NON STANDARD)	Development Plan within 30 days to	Applicant	after	
		A General Development Plan for shall be submitted for	the RMA - Planning Department for		approval of	
1		Phase two of required clearance of code violation	review.		this project	
		CE050221. The plan shall be prepared by the developer	· · · · · · · · · · · · · · · · · · ·	-		
		and submitted for review and approval prior to or				
		concurrent with approval of any required permits for the	2) Submit the final application for a		2) 60 days	
		development. The plans shall include a complete	Coastal Development Permit to allow a	34	after submittal of	
		written outline of a 15 to 20 year long range plan for	General Development Plan for	) <u> </u>	preliminary	
		Fernwood Resort; to include:	processing and approval to the Zoning		General	
·	· ·	1. Historic, current and planned uses, including physical	Administrator within 60 days after		Development	
		expansion and new development; 2. maximum occupancy of the various resort	preliminary GDP. If final application		Plan	
		components, such as hours of operation and special	is not submitted within 60 after			
1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -		events;	preliminary, staff shall schedule a			
		3. circulation or transportation improvements with	hearing with the Zoning Administrator			
		environmental considerations;	for nonconformance.		· .	
		4. any potential mitigation of adverse environmental				
		impacts; and				
		5. Prove conformance to the policies of the Big Sur				
		Land Use Plan.		. •		
		The General Development Plan shall be accompanied				
		by a biological study, a historic analysis, and additional			·	
		studies as determined by planning staff. (RMA -				
		Planning Department)				
5.	•	PDSP002 - VIOLATION FEE (NON-STANDARD)	Pay all fees to the Code Enforcement	Applicant/	Prior to	
		Prior to issuance of permits, the owner shall pay any	Division.	Owner	issuance of	
	1	violation fee required prior to submitting the subject	· · · · · · · · · · · · · · · · · · ·		permits or	
		application (PLN060356). (RMA - Planning			start of use.	
		Department)				

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mutigation Measures and Kesponsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification: of Compliance (name/date)
6.		EH11 - SEPTIC SYSTEM DESIGN Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB. (Environmental Health)	Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.	CA Licensed Engineer /Owner/ Applicant	Prior to filing the final parcel map or issuance of building	
7.		WR22 - FLOODPLAIN RECORDATION The owner shall provide the Water Resources Agency a recorded Floodplain Notice stating: "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." (Water Resources Agency)	Submit the recorded floodplain notice to the Water Resources Agency for review and approval. (A copy of the County's standard notice can be obtained at the Water Resources Agency.)	Owner/ Applicant	Prior to issuance of any grading or building permits	
8.		WR45 - WELL INFORMATION The applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. (Water Resources Agency)	Submit all applicable well information to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any grading or building permits	
· · · · · · · · · · · · · · · · · · ·						

Permit Cond: Number	Mitig Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Pany for Compliance	Timing	Verification of Compliance (name/date)
9.		FIRE009 - BRIDGES All new and reconstructed bridges shall be at least the width of the roadbed and berms, but in no case less than 12 feet wide. Bridge width on all roads exceeding tertiary standards shall not be less than the width of the two lanes with berms. All bridges shall be designed for HS15-44 loading and have guardrails. Appropriate signage, including but not limited to, weight ratings or vertical clearance limitations, and one-way road or single-lane road conditions, shall be provided at both entrances to any bridge. One-lane bridges may be permitted if there is unobstructed visibility across the entire bridge, and turnouts are provided at both bridge ends. The fire authority may impose more stringent requirements for bridges. CDF-Big Sur	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
10.		FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE) All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. CDF- Big Sur	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	5. J

C	Permit Cond: Number		Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	the second second second second second second second	Verification of Compliance (name/date)
	11.		FIRESP001 - GENERAL DEVELOPMENT PLAN	Applicant shall incorporate	Applicant	Prior to	
			(NON-STANDARD)	specification into design and	or owner	issuance of	·
-			PHASE II General Development Plan is subject to fire	enumerate as "Fire Dept. Notes" on		grading	
			authority review. CDF-Big Sur	plans.		and/or	
		· · ·				building	
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END OF CONDITIONS











