

JEFF MAIN
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 070565

A.P. # 229-021-002-000

In the matter of the application of
Big Sur Land Trust (PLN070565)

FINDINGS AND DECISION

for a **Coastal Development Permit** in accordance with Title 20 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow development within 100 feet of environmentally sensitive habitat area to include removal of invasive plant species (ice plant and European beach grass) to promote the natural establishment of native plant species which would benefit habitat for threatened or endangered species known to occur at the site (Snowy Plover, Smith's Blue Butterfly, Legless Lizard, Monterey Gilia, and Menzies Wallflower). The property is located at Highway 1 and Del Monte Blvd, North County Land Use Plan, Coastal Zone, and came on regularly for hearing before the Zoning Administrator on March 13, 2008.

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, North County Land Use Plan, Coastal Implementation Plan Part 2, and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for conservation and enhancement of environmental resources.

EVIDENCE: (a) Plan Conformance 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) Zoning Consistency The property is located at Highway 1 and Del Monte Blvd (Assessor's Parcel Number 229-021-002-000), north of the City of Marina, North County Land Use Plan. The parcel is zoned Resource Conservation in the Coastal Zone ("RC (CZ)") which allows as a principal use restoration and management plans for fish, wildlife, or other physical resources subject to a Coastal Administrative Permit in each case.

(c) Site Visit The project planner conducted a site inspection on February 15, 2008 to verify that the project on the subject parcel conforms to the plans listed above.

(d) Biological Resources The Martin Dunes site is identified as an environmentally sensitive habitat in the North County Land Use Plan and by the United States Fish and Wildlife Services (USFWS). Project activities associated with invasive plant removal including access and herbicide treatments at the site may affect but are not likely to adversely affect sensitive species and long-term effects of the project are expected to be beneficial to these species. Pursuant to section 7 of the Endangered Species Act (ESA), the USFWS has permitted the funding and activities at the Martin Dunes property through a formal consultation resulting in a biological opinion. Reasonable and prudent measures have been adopted within the plan proposal and implementation consistent with the ESA to avoid and reduce project impacts on sensitive species. The purpose and intent of the

project is to promote native habitat to aid in recovery of the sensitive species at the site and will be beneficial to these and other species in the long-term. Potential initial impacts due to project activities would not jeopardize the continued existence of any species. The North County LUP and the Coastal Act both stress the idea and importance of protecting, maintaining, and, where possible enhancing and restoring sensitive habitat (Key Policy 2.3.2.1). Permits or permission from the California Department of Fish and Game (DFG) are still necessary. Condition 6 requires the BSLT to obtain permits for the DFG prior to invasive plant removal activities.

- (e) Public Access Existing public access and trails are shown on Figure 6 of the North County LUP. Access and trails will be temporarily closed while herbicide treatments are conducted (Policy 4.3.6.C, Recreation Management item 4). See Findings and Evidence 3 and 6 for more information.
- (f) LUAC The project was referred to the North County Land Use Advisory Committee (LUAC) for review. On January 22, 2008, the North County LUAC unanimously voted to recommend approval of the project without citing any concerns or recommended changes.
- (g) Application 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 PLN070565.

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, North County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. Additionally Parks, the Agricultural Commissioner, United States Fish and Wildlife Services, The California Department of Fish and Game, and the California Coastal Commission were consulted. 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) The USFWS biological opinion indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:
 - i. "Intra-Service Biological Opinion on the U.S. fish and Wildlife Service's Proposed Funding of the Martin Dunes Invasive species Removal Project" (LIB080001) prepared by Assistant field Supervisor, Ventura Fish and Wildlife Office, Ventura, CA, October 11, 2007.
- (c) Staff conducted a site inspection on February 15, 2008 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN070565.

3. **FINDING: CEQA (Exempt)** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15333, categorically exempts projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for plants and wildlife.

- (b) Vegetation management and restoration are encouraged by the adopted Local Coastal Plan which is the programmatic equivalent of an EIR. The project mitigates within its self by design and by purpose by enhancing habitat and contributing to the continued long term maintenance of affected species [CEQA 15065(b)(2)].

- (c) Temporary impacts from project activities will not jeopardize the continued existence of sensitive species.
- (d) The project is being partially funded by the United States Fish and Wildlife Services and has been evaluated by them under the National Environmental Policy Act (NEPA). USFWS has concluded in their formal evaluation that the proposed project can be categorically excluded from NEPA.
- (e) Project activities will not substantially deteriorate existing public recreational facilities and there will be no long-term adverse impacts to access at the site. Lateral access can still be obtained from Del Monte Blvd. to the north at the Salinas River Wildlife Refuge.
- (f) No adverse environmental effects were identified during staff review of the development application or during a site visit on February 15, 2008.
- (g) See findings 1 and 2 above with supporting evidence.
- (h) Meeting with California Department of Fish and Game on February 14, 2008.
- (i) Consultation with the USFWS on February 22, 2008.
- (j) Consultation with the California Coastal Commission on February 21, 2008.
- (k) The area of impact is less than 5 acres.

4. **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. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

5. **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: Findings (1)(d & e), (2)(b), and (3) above.

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. 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 project site is located in an area shown in the North County Land Use Plan Trails Plan maps as an area with existing public trails and lateral beach access (Figure 6). The project, invasive plant removal and native plant restoration, will not substantially deteriorate existing public recreational facilities and there will be no long-term adverse impacts to access at the site.

- (b) No development is proposed which would necessitate a shoreline protective device or public maintenance area.
- (c) Public access will be temporarily restricted during herbicide treatment periods, in accordance with the North County LUP Recreation Management Policies, between October 1 and March 1 established to avoid snowy plover nesting season and Smith's blue butterfly migrations. Lateral beach and trails access will still be available from Del Monte Blvd. to the north at the Salinas River National Wildlife Refuge.
- (d) Staff site visit on February 15, 2008.

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 projects located within 100 feet of environmentally sensitive habitat are subject to a Coastal Development Permit (Conditional Use).

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 13th day of **March, 2008**.



JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON **MAR 17 2008**

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 27 2008**

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 RMA - Planning and RMA - Building Services Department offices in Salinas.

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

**Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan**

Project Name: Big Sur Land Trust – Martin Dunes Restoration
File No: PLN070565 **APNs:** 229-021-002-000
Approved by: Zoning Administrator **Date:** March 13, 2007

**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. Number</i>	<i>Conditions of Approval and/or Mitigation Measures 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 (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY This Coastal Development Permit (PLN070565) allows restoration of native habitat at the Martin Dunes property by treating dense areas of iceplant with herbicide and hand-pulling of iceplant and European Beach grass in less dense areas subject to compliance with the U.S. Fish and Wildlife Services policies and recommendations contained in the biological opinion dated October 11, 2007. The property is located at Highway 1 and Del Monte Blvd (Assessor's Parcel Number 229-021-002-000), North County Land Use Plan. 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 the 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 other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures 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 (name/date)</i>
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 070565) was approved by the Zoning Administrator for Assessor's Parcel Number 229-021-002-000 on March 13, 2008. 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 RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to commencement of project activities	
3.		PD016 – NOTICE OF REPORT Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Biological Opinion has been prepared for this parcel by the United States Fish and Wildlife Services, dated October 11, 2007 and is on record in the Monterey County RMA - Planning Department , Library No. LIB080001. All development shall be in accordance with this report." (RMA – Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to commencement of project activities	
4.		PD032 - PERMIT TIME/YEAR & DATE The permit shall be granted for a time period of 3 years, to expire on March 13, 2011 (RMA – Planning Department)	None	Owner/ Applicant	As stated in the conditions of approval	

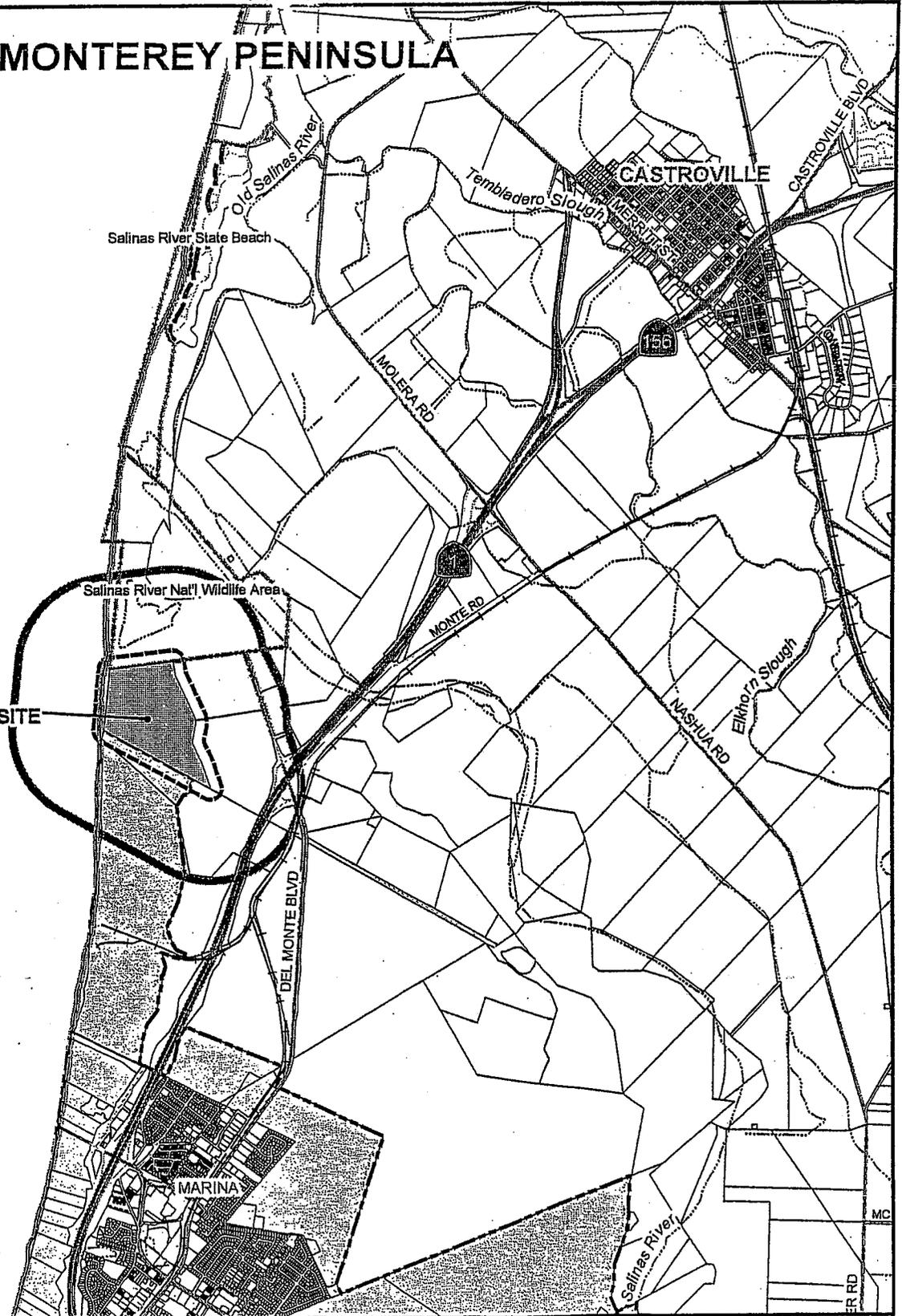
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		PDSP001 – SUCCESS CRITERIA AND REPORTING (NON-STANDARD) Consistent with, and in addition to, the Reporting Requirements contained in the USFWS biological opinion, the Big Sur Land Trust must provide a written report to the Director of Planning within 12 months following completion of invasive plant removal activities indicating compliance with the terms and policies of the biological opinion issued by USFWS. (RMA – Planning Department)	The applicant shall submit a written report within 12 months following invasive plant removal to the Director of Planning, for review and approval, demonstrating compliance with the requirements contained in the USFWS biological opinion issued for the project dated October 11, 2007.	Applicant/ Owner/ Biologist/ USFWS	Within 12 months following completion of invasive plant removal.	
6.		PDSP002 – OTHER AGENCY PERMITS (NON-STANDARD) If required, prior to commencement of any project activities, obtain clearance and/or permits from the following agencies: a. California Coastal Commission b. U.S. Army Corps of Engineers/ACOE (401/404) c. California Department of Fish & Game (1601) d. Monterey Bay National Marine Sanctuary (MBNMS) (RMA-Planning Department)	Contact and obtain required clearances and/or permits from the appropriate agencies for the proposed project. Submit evidence, for review and approval, to the RMA-Planning Department that clearance and/or permits have been obtained or were not required.	Owner/ Applicant	Prior to commencement of project activities	

END OF CONDITIONS

GREATER MONTEREY PENINSULA

Pacific
Ocean

PROJECT SITE



APPLICANT: BIG SUR LAND TRUST

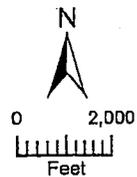
APN: 229-021-002-000

FILE # PLN070565

 300' Limit

 2500' Limit

 City Limits



PLANNER: SPENCER