

RESOLUTION NO. 090029

A. P. # 008-445-007-000

In the matter of the application
ESALEN INSTITUTE (PLN090029)

FINDINGS AND DECISION

to allow a **Combined Development Permit** in accordance with Title 20 (Zoning) Chapter 20.82 (Combined Development Permits) of the Monterey County Code, for a Combined Development Permit consisting of: 1) a Coastal Administrative Permit to construct a well to augment an existing spring and surface diversion system damaged by the 2008 Basin Wildfire; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource. The property is located at 55000 Highway One, Esalen Institute (Assessor's Parcel Number 421-011-006-000), Big Sur, Coastal Zone, and came on regularly for hearing before the Zoning Administrator on March 26, 2009.

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 Big Sur Coast Land Use Plan, Big Sur Coastal Implementation Plan (Part 3), and the Monterey County Zoning Ordinance Part 1 (Title 20), which designates this area as appropriate for a water system accessory to 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 55000 Highway 1 (Assessor's Parcel Number 421-011-006-000), Big Sur Coast Land Use Plan. The parcel is zoned Rural Density Residential, in the Coastal Zone [RDR/40-D-HR (CZ)], which allows the construction of water system facilities serving 14 or fewer service connections as a principal use. Therefore, the property is suitable for the proposed development.
 - (c) The project planner conducted a site inspection on January 26, 2009, to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) The existing visitor serving facilities (Esalen Institute) are currently serviced by a spring and surface water diversion system from the Hot Springs Canyon. This system was damaged by the 2008 Basin Complex Wildfire, and further damage may occur

from erosion. Due to the damage, the existing system is not capable of providing an adequate potable water supply for daily use, nor for emergency fire flow purposes. There is no alternative water supply at the site, and a new well is needed to provide an adequate supply to the existing connection. The proposed well will augment the existing primary water source for the facilities and ensure an adequate supply of water for potable use and fire protection, especially in case of further damage to the existing system. The proposed well will serve existing uses, and will not result in intensification (Big Sur Coast LUP Section 3.4.3). Prior to the wildfire, the existing facilities used approximately 17,000 gallons per day (GPD), not including irrigation for on-site agricultural gardens. Since the wildfire, the existing water system has only provided approximately 10,000 GPD. The proposed well is planned to reduce the deficit in daily use requirements. The applicant intends to retain the spring portion of the existing water system, and stop use of the existing surface diversion source. The practicality of this approach will depend upon the quantity and quality of water provided by the new well, and its long-term viability.

- (e) The proposed well site is located in an area of the parcel that has available road access both above and below the site. The new well site will have no effect on special-status species, sensitive habitat, or other significant biological resources (Big Sur Coast LUP Policy 3.3.2.1). Monarch butterflies are known to overwinter in Eucalyptus trees in the Pfeiffer Big Sur area. The resource map in the Big Sur Coastal Implementation Plan identifies the riparian corridor as a sensitive environmental resource; however, it does not identify any other mapped resources on the immediate parcel outside of the riparian corridor. No biological report was required for the project, and this aspect was not further evaluated consistent with Big Sur CIP Policy 20.145.040.A.1. The parcel is approximately 14 acres, and the proposed well site is over 400 hundred feet from the riparian corridor. Therefore, this is consistent with development guidelines that restrict development within 150 feet of a riparian corridor (Big Sur CIP Policy 20.145.040.C.1.d).
- (f) Tree Removal: Ten (10) Eucalyptus and one (1) Monterey Pine are proposed for removal. All trees proposed for removal are either non-native (Eucalyptus) or have a diameter of less than ten inches, and the removal of these trees is consistent with the thinning of small trees from densely forested areas (Big Sur Coast CIP Policy 20.145.060.A.1.c) or the removal of non-native trees (Big Sur Coast CIP Policy 20.145.060.A.1.a). The removal of the non-native trees will not result in the exposure of structures in the critical viewshed. None of the trees proposed for removal exceed 24 inches in diameter, and are not considered landmark trees per the definition in the Big Sur Coast CIP (Policy 20.145.060.D).

Therefore, the proposed tree removal is exempt, and no separate entitlement is required.

- (g) The project includes a Coastal Development Permit to allow development within 750 feet of a known archaeological resource. County records identify the project site is within an area of high sensitivity for prehistoric cultural resources; however, an archaeological survey completed for this project did not identify the potential for impacts to prehistoric resources, and there is no evidence that any cultural resources would be disturbed (Big Sur Coast LUP Policy 3.11.1). Also, see Finding 2, Evidence b. Therefore, the potential for inadvertent impacts is limited and can be controlled by the use of the County's standard project condition (Condition No. 3).
- (h) Environmental Health has not indicated that the use as proposed will adversely impact the natural supply of water necessary to maintain the environment and the supply available to meet the minimum needs of existing users during the driest years.
- (i) The project does not create any new structures within the critical viewshed (Big Sur Coast LUP Policy 3.2.2).
- (j) Implementation of the project will not require water to be exported out of the principal watershed.
- (k) The project was not referred to the Big Sur Coast Land Use Advisory Committee for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because it does not include development requiring CEQA review, does not involve a lot line adjustment, does not require the issuance of a Variance, and does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission.
- (l) 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 PLN090029.

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, 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 by the Planning Department and the Environmental Health Division have been incorporated.
 - (b) Technical report by an outside archaeological consultant 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 report has been prepared:

- i. "Cultural Resources Letter" (LIB090106) prepared by Archaeological Consulting, Salinas, California, February 4, 2009.
 - (c) Staff conducted a site inspection on January 26, 2009, to verify that the site is suitable for this use.
 - (d) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN090029.

- 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 15303, Class 3, categorically exempts the construction of new, small facilities or structures.
 - (b) No adverse environmental effects were identified during staff review of the development application during a site visit on January 26, 2009.
 - (c) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN090029.
 - (d) Findings 1 and 2, and supporting evidence.

- 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, 2, 3, and 4, and supporting evidence

- 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. 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 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 (Shoreline Access Plan) and Figure 3 (Trails Plan) 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 conducted a site visit on January 26, 2009.

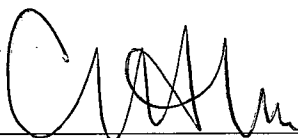
7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- (a) Board of Supervisors: Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20).
 - (b) Coastal Commission: Section 20.86.080.A.1 and A.3 of the Monterey County Zoning Ordinance (Title 20). Approved projects between the sea and the first public road paralleling the sea, or approved projects involving development in the underlying zone as a conditional use, are appealable to the Coastal Commission

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that the Mitigated Negative Declaration and Mitigated Monitoring Plan be adopted and 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 March, 2009.



CARL HOLM, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON APR 22 2009

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 MAY 02 2009

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 Department and RMA - Building Services office in Salinas.

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

EXHIBIT C Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: <u>Esalen Institute</u> File No: <u>PLN090029</u> APNs: <u>421-011-006-000</u> Approved by: <u>Zoning Administrator</u> Date: <u>March 26, 2009</u>
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**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.		PD001 - SPECIFIC USES ONLY This Combined Development Permit (PLN090029) allows the construction of a well to augment an existing spring and surface diversion system damaged by the 2008 Basin Wildfire, and development within 750 feet of a known archaeological resource. The property is located at 55000 Highway 1, Big Sur (Assessor's Parcel Number 421-011-006-000), Big Sur Land Use Plan, 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 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	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated.	

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		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)				
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 090029) was approved by the Zoning Administrator for Assessor's Parcel Number 421-011-006-000 on March 26, 2009. The permit was granted subject to twelve (12) 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 the issuance of grading and building permits or commencement of use.	
3.		PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological,	Owner/ Applicant/ Archaeologist	Ongoing	

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		subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)	historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.			
4.		PD004 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing	

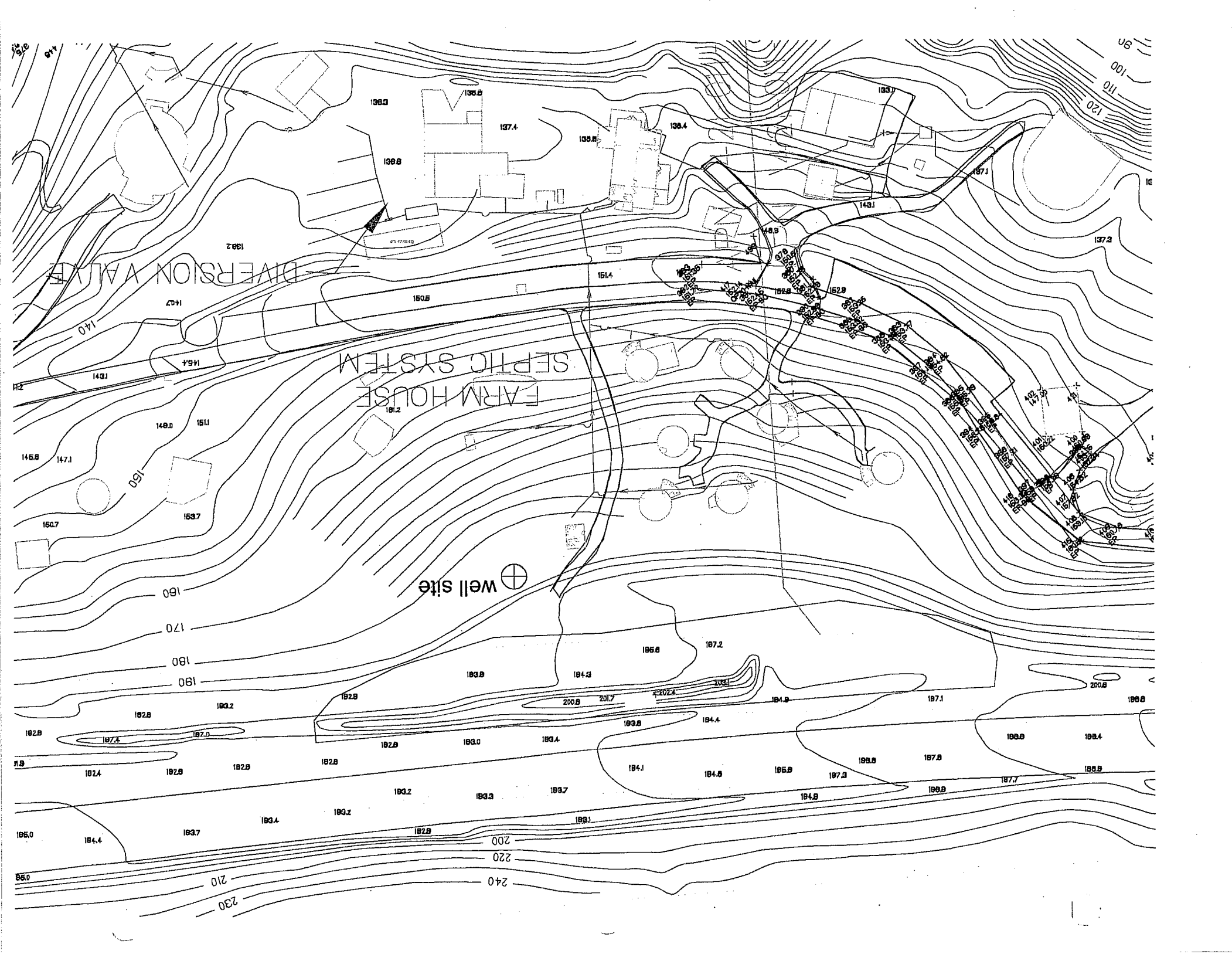
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		County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)			of the final map, whichever occurs first and as applicable.	
5.		PD032 - PERMIT TIME/YEAR & DATE The permit shall be granted for a time period of 4 years, to expire on March 26, 2013. (RMA – Planning Department)	None	Owner/ Applicant	As stated in the conditions of approval	
6.		PDSP002 - DRILLING SPOIL CONTAINMENT (NON-STANDARD) Drilling mud and cement used for capping of the well shall not be allowed to escape the well site.	Submit evidence of installation of containment basins to the RMA – Planning Department prior to drilling of well.	Owner/ Applicant / Well Contractor	Prior to drilling of new well.	

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		Containment basins shall be installed. Drilling mud shall be temporarily stored in these basins so that none escapes into the surrounding habitat. The driller shall monitor the amount of mud contained in the basin to prevent overflow, and shall pump out and properly dispose of any and all mud generated by this project. All foreign material used in this project, including sand bags and their contents, shall be removed from the site after the project is completed. The applicant shall submit evidence of installation of containment basins prior to drilling of well. (RMA - Planning Department)				
7.		PDSP003 – DRAINAGE PLAN (NON-STANDARD) The applicant shall ensure on-site and off-site impacts of water run-off from the pump test are minimized, and measures are used to minimize/contain erosion. (RMA – Planning Department)	Applicant and/or drilling contractor shall contact the assigned planner in the Planning Department to discuss strategies to reduce impacts, which may include the preparation of a formal drainage and/or erosion control plan.	Owner/ Applicant / Well Contractor	Prior to construction of the new well.	
8.		EH1 - WATER SYSTEM PERMIT Obtain a new or amended water system permit from the Division of Environmental Health. (Environmental Health)	Submit necessary application, reports and testing results to EH for review and approval.	CA Licensed Engineer /Owner/ Applicant	Within 30 days of issuance of permit.	

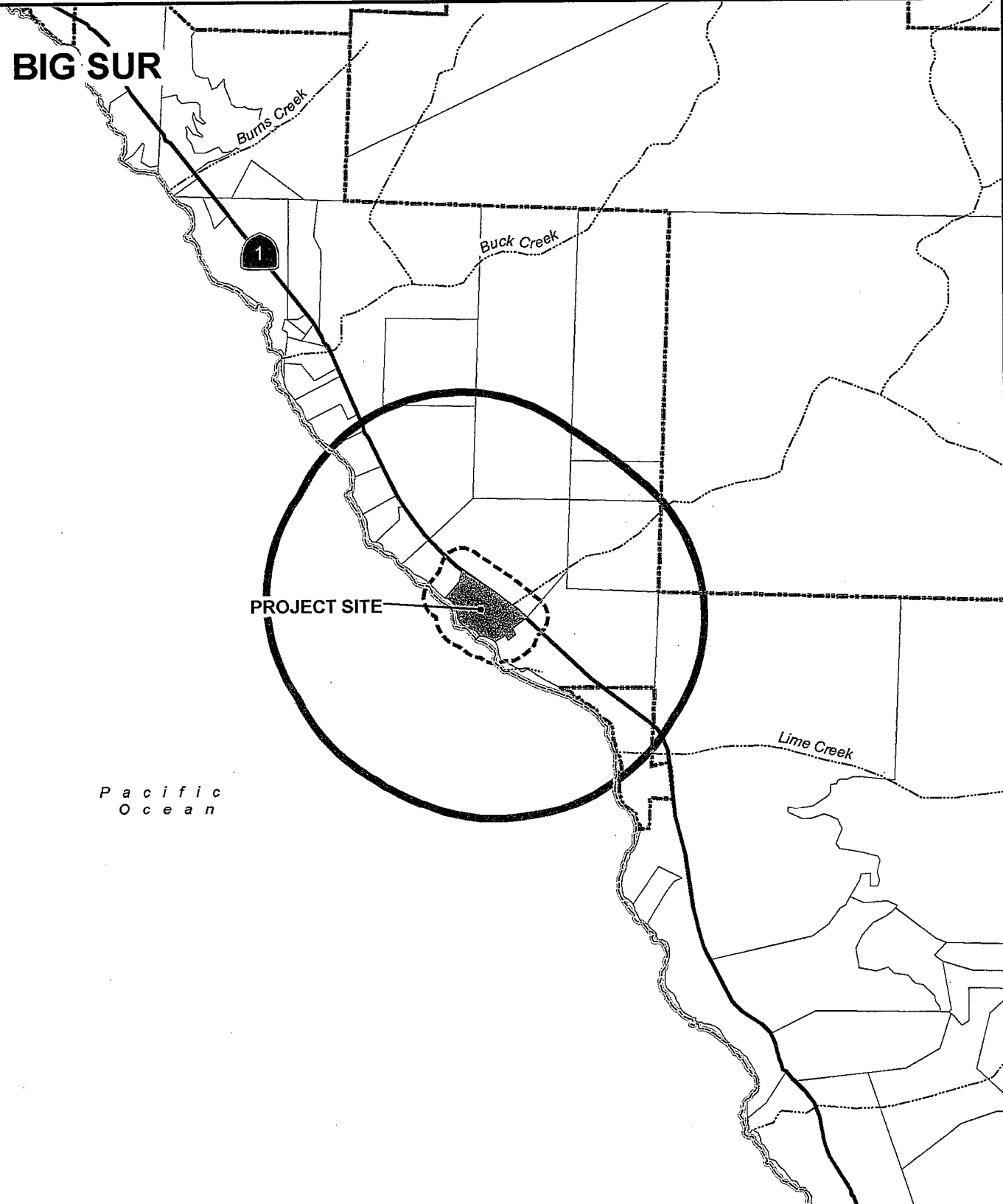
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
9.		EH3 - WATER SYSTEM IMPROVEMENTS (STATE PERMITTED SYSTEM) Design the water system improvements to meet the standards as found in Titles 17 and 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. (Environmental Health)	Submit engineered plans for the water system improvements to Environmental Health for review and approval prior to installing or bonding the improvements.	CA Licensed Engineer /Owner/ Applicant	Submit plans within 90 days of completion of the well.	
10.		EH8 - 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 construction of the new well.	
11.		EH9 - NEW WELL PUMP TESTS All new or rehabilitated wells to be added to the potable water distribution system shall first undergo a minimum of a 72-hour continuous pump test to determine the yield of the well. Unless otherwise approved by the Director of Environmental Health, the yield of the well shall be calculated by multiplying the 24-hour specific capacity by the available drawdown. If the apparent transmissivity decreases between the first 24 hours of the test and the end of the test, the 24-hour specific capacity shall be adjusted by multiplying the ratio of late-time transmissivity to early-time transmissivity. For the purposes of this condition, available drawdown is defined as two-thirds of the vertical distance from the static water level to the lowest perforations of the well.	Submit a report to EH for review and approval.	CA Licensed Engineer / Owner / Applicant	Coordinate specific timing with Environmental Health.	

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		The pump tests shall be made no earlier than June 1 of each year and no later than the first significant rainfall event of the wet season. The pump test results shall be presented in a form for direct comparison to the criteria set forth in this condition. A representative of the Division of Environmental Health shall witness the pump tests. The applicant shall pay all associated fees to the Division of Environmental Health. (Environmental Health)				
12.		EH44 - WELL LOT EASEMENT (NON-STANDARD) Submit a well lot easement deed and corresponding map. The easement map shall be developed in consultation with certified professional and shall indicate the proposed well lot, water distribution, and access easement for the water system. An easement deed shall be submitted to, reviewed and approved by, the Division of Environmental Health prior to issuance of well permit. (Environmental Health)	Submit the well lot easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the Division of Environmental Health for review and approval.	Owner / Applicant / Certified Professional	Prior to issuance of well permit.	
			Record the deed and map showing the approved well easement. Submit a copy of the recorded deed and map to the RMA – Planning Department and the Division of Environmental Health.	Owner/ Applicant	Prior to commencement of use.	

END OF CONDITIONS



BIG SUR



Pacific
Ocean

PROJECT SITE

Burns Creek

Buck Creek


Lime Creek

APPLICANT: ESALEN INSTITUTE

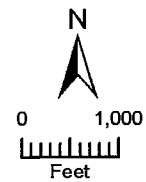
APN: 421-011-006-000

FILE # PLN090029

 300' Limit

 2500' Limit

 City Limits



PLANNER: SIDOR