

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

MONTEREY DUNES ASSOCIATION (PLN090261)

RESOLUTION NO. 10-001

Resolution by the Monterey County Zoning
Administrator:

- 1) Categorically Exempts per Section 15304(f); and
- 2) Approving a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat for the installation of three artificial sand dunes on the seaward side of the common area in the Monterey Dunes Colony Association for the purpose of providing a second layer of wave protection, and grading (1,970 cubic yards cut/fill). Artificial dunes will consist of polypropylene bags filled with sand, then covered by sand and vegetated with local native dune plants.

(PLN090261, Monterey Dunes Association, 195 Monterey Dunes Way, Castroville, North County Land Use Plan (APN: 229-041-004-000))

The Coastal Development Permit application (PLN090261) came on for public hearing before the Monterey County Zoning Administrator on January 14, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the Monterey County General Plan,
 - North County Land Use Plan,
 - Monterey County Coastal Implementation Plan, Part 2
 - Monterey County Zoning Ordinance (Title 20)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 195 Monterey Dunes Way, Castroville (Assessor's Parcel Number 229-041-004-000, North County Land Use Plan. The parcel is zoned "MDR/B-6 (CZ)" Medium Density Residential, B-6 District overlay (Coastal Zone), which allows nonexempt development within 100 feet of environmentally sensitive habitat with a Coastal Development Permit. Therefore, the project is an allowed land use for this site. The B-6 District overlay limits the

property from being further subdivided and does not affect proposed development.

- c) Applicants propose the installation of three artificial sand dunes on the seaward side of the common area in the Monterey Dunes Colony Association for the purpose of providing a second layer of wave protection. Artificial dunes will consist of polypropylene bags filled with sand, then covered by sand and vegetated with local native dune plants. When filled, each bag will be approximately 2.5 feet high, 6 feet wide and 6 feet long. Each dune will contain six bags and be approximately 18 feet long.
- d) The project planner conducted a site inspection on August 17, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Staff identified potential impacts to Biological Resources. According to the biological report, the subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and Policies 2.3 of the North County Land Use Plan. (*See Finding #7*)
- f) On November 2, 2009, the project was referred to the North County Coastal Land Use Advisory Committee (LUAC) for review because a Coastal Development Permit is required for development within 100 feet of Environmentally Sensitive Habitat. They recommended approval with a 3 to 1 vote. They had three main concerns: 1) that the construction would not obstruct the tenant's views; 2) make sure no environmentally sensitive habitat (ESHA) would be disturbed; and 3) couldn't they use a more natural bio-degradable alternative? The applicants stated that no views would be obstructed, no ESHA would be disturbed, and their intent is to use materials that would not require them to keep replacing the bags.
- g) 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 PLN090261.

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. 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) Staff identified potential impacts to Biological Resources. Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. Although the Archaeological report is negative, staff has conditioned the project accordingly. (*Condition #4*) The following reports have been prepared:
 - "*Biotic Survey for Proposed Artificial Dunes Project*"

(LIB090471) prepared by David Shonman, Coastal Biologist, October 1, 2009.

- "Preliminary Archaeological Reconnaissance for the Artificial Dunes Project at Monterey Dunes Colony" (LIB090472) prepared by Archaeological Consulting, September 24, 2009.

- c) Staff conducted a site inspection on August 17, 2009 to verify that the site is suitable for this use.
- d) 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 PLN090261.

3. **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 RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. The respective departments/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.
 - b) Most of the area proposed to be covered by the three artificial dunes is land that had been previously disturbed by the installation of the septic system for the Dunes Colony. Environmental Health has visited the site and has no issues with the proposal. Staff has incorporated a condition requiring the applicant to show the location of existing septic system modifications, that they are compliant with Monterey County Code and that they obtain a permit for the modifications (*Condition #7*).
 - c) See findings #1 and #2 and supporting evidence for PLN090261.

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.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on August 17, 2009 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) Zoning violation abatement costs, if any, have been paid. A condition is included to assure that all zoning abatement costs, if any, have been paid.
 - e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the

proposed development are found in Project File PLN090261.

5. **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 15304(c) categorically exempts filling of earth into previously excavated land with material compatible with the natural features of the land.
 - b) California Environmental Quality Act (CEQA) Guidelines Section 15304(f) categorically exempts minor trenching and backfilling where the surface is restored.
 - c) Most of the proposed area is land that had been previously disturbed by the installation of the existing septic system. With the exception of the grading to install the bags, the artificial dunes will be placed entirely above the existing dune surface. These tiers of sand bags will then be covered with existing sand and vegetated with appropriate local native dune plants (*Condition #5*).
 - d) Staff spoke with Environmental Health and confirmed that the existing septic systems will not be negatively affected by the work. Prior to installing the artificial dunes, septic tank risers will be installed (*Condition #7*).
 - e) No adverse environmental effects were identified during staff review of the development application during a site visit on August 17, 2009.
 - f) See preceding and following findings and supporting evidence.
6. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.144.150 of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 4 in the North County Land Use Plan).
 - c) The subdivision is a private gated community. There is currently boardwalk access for owners and guests to the beach. The boardwalk area that is located near proposed work will be blocked off during construction and an alternative route will be provided for beach access.
 - d) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090261
 - f) The project planner conducted a site inspection on August 17, 2009.
 - g) The proposed project is located seaward of the first public road near units #300 to #328 on the Monterey Dunes Colony property; however,

development will not affect any public access ways or potential public trust rights on beaches.

7. **FINDING:** **ESHA** – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the applicable area plan and zoning codes.
- EVIDENCE:**
- a) The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the North County Land Use Plan (NCLUP) and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
 - b) Activities for maintenance of existing structures and roads, or activities for watershed restoration maybe allowed within environmentally sensitive habitats if it has been determined through the biological survey that impacts of development will not harm the habitat's long-term maintenance. (20.144.040.B.1 CIP, ref. Policy 2.3.2.1 NCLUP) The Biological Report has determined that no protected plant species will be disturbed.
 - c) The use of native species consistent with and found in the project area shall be required in landscaping required as a condition of project approval. (20.144.040.B.9 CIP, ref. Policy 203.2.9 NCLUP) The Monterey Dunes Colony floral community serves as a viable source of seeds that helps to naturally sustain the existing vegetation; this natural seed bank has also been used to supply seeds to restore disturbed portions of the Monterey Dunes Colony. Once, the disturbed area will be covered with sand, it shall be vegetated with appropriate local native dune plants (*Condition #5*).
 - d) Construction activities, and industrial, public and commercial recreational uses which would affect rare, threatened and endangered birds shall be regulated by conditions of project approval to protect habitats of the birds during their breeding and nesting seasons. (20.144.040.B.10 CIP, ref. Policy 2.3.2.10 NCLUP) The Western snowy plover has been known to occur in areas along the beach. From approximately March 1 through September 30, Western snowy plovers use local beaches to lay eggs and rear their young. Therefore, the project shall be conditioned to require that construction activities are concluded before the Western snowy plovers begin their nesting season on March 1st and through September 30, 2010. (*Condition #6*).
 - e) The project planner conducted a site inspection on August 17, 2009 to verify ESHA locations and potential project impacts to ESHA.
 - f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090261.
8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission
- EVIDENCE:**
- a) Section 20.86.030 Monterey County Zoning Ordinance (Board of Supervisors).
 - b) Section 20.86.080 Monterey County Zoning Ordinance (Coastal

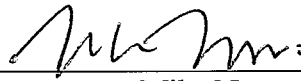
Commission). The project is subject to appeal by/to the California Coastal Commission because the underlying project is a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically Exempts CEQA per Section 15304 (c) and 15304 (f); and
- B. Approves Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat for the installation of three artificial sand dunes on the seaward side of the common area in the Monterey Dunes Colony Association for the purpose of providing a second layer of wave protection and grading (1,970 cubic yards cut/fill, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 14th day of January, 2010:



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON **JAN 20 2010**

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 TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **JAN 30 2010**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, 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 Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

RESOLUTION 10-001 - EXHIBIT 1
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: Monterey Dunes Colony
File No: PLN090261 APNs: 229-041-004-000
Approved by: Zoning Administrator Date: January 14, 2010

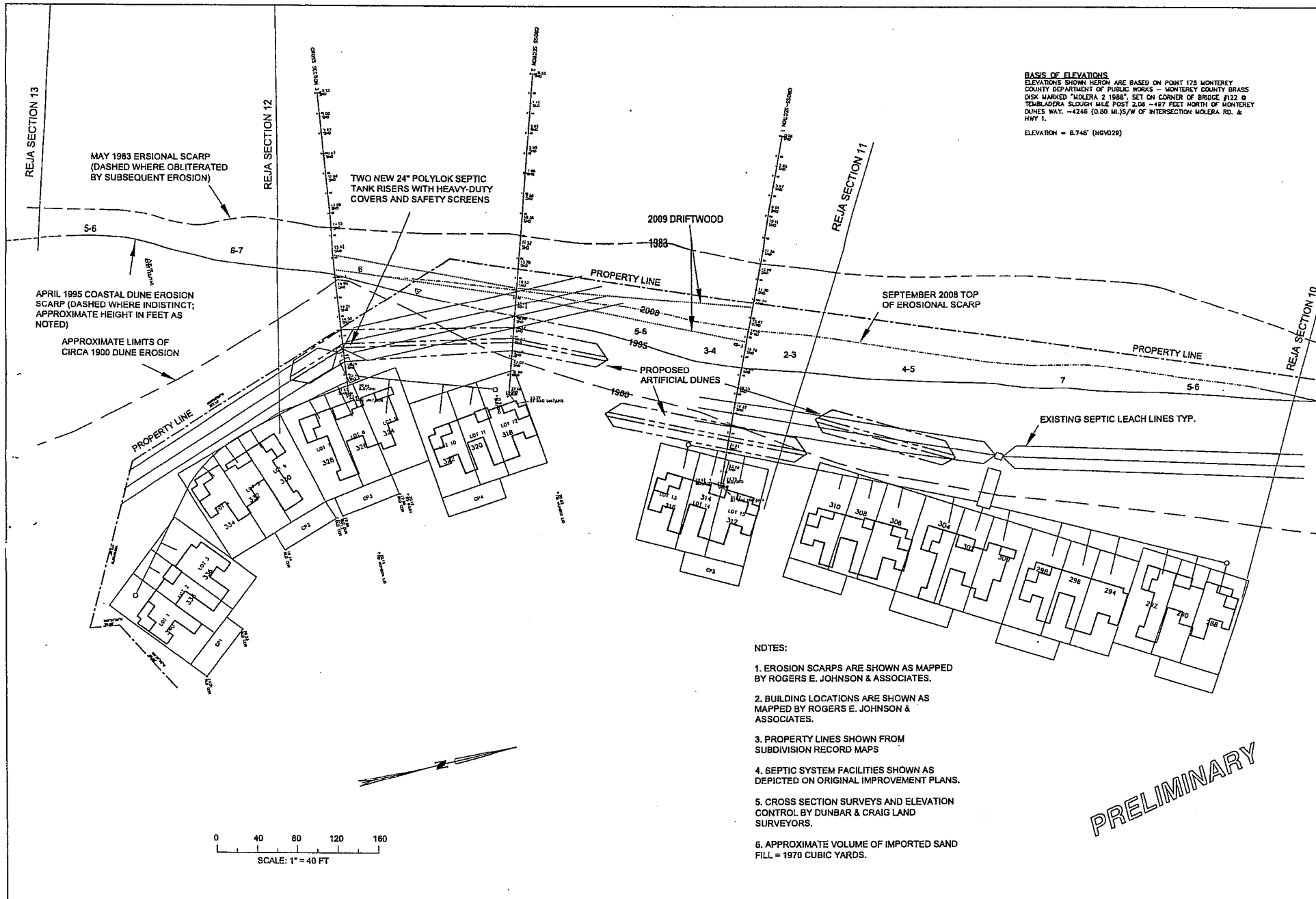
**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

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)
RMA – Planning Department						
1.		PD001 - SPECIFIC USES ONLY This Coastal Development Permit (PLN090261) allows development within 100 feet of Environmentally Sensitive Habitat for the installation of three artificial sand dunes on the seaward side of the common area in the Monterey Dunes Colony Association for the purpose of providing a second layer of wave protection, and grading (1,970 cubic yards cut/fill). Artificial dunes will consist of polypropylene bags filled with sand, then covered by sand and vegetated with local native dune plants. The property is located at 195 Monterey Dunes Way, Castroville (Assessor's Parcel Number 229-041-004-000), 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. 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. (RMA-Planning Department)	Adhere to conditions and uses specified in the permit. 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. 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.	Owner/ Applicant RMA - Planning WRA RMA - Planning	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 10-001) was approved by the Zoning Administrator for Assessor's Parcel Number 229-041-004-000 on January 14, 2010. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." (RMA-Planning Department)	Obtain appropriate form from the RMA-Planning Department. The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant RMA- Planning	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD032(A) - PERMIT EXPIRATION The permit shall be granted for a time period of 3 years, to expire on January 14, 2013, unless use of the property or actual construction has begun within this period. (RMA – Planning Department)	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval	
4.		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 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)	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, 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.	Owner/ Applicant/ Archaeo- logist	Ongoing	

<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- RESTORATION OF NATURAL MATERIALS (NON-STANDARD) Upon completion of the development, the area disturbed shall be restored with existing sand and vegetated with appropriate local native dune plants. The applicant shall submit landscape plans showing the type of plants to be used the Director of the RMA - Planning Department. Plans for such restoration shall be submitted to and approved by the Director of the RMA - Planning Department prior to commencement of use. (RMA – Planning Department)	Submit restoration/landscape plans to the RMA - Planning Department showing the native dune plants to be used for review and approval.	Owner/ Applicant	Prior to com- mence- ment of use.	
6.		PDSP001 – CONSTRUCTION TIMING (NON STANDARD) From approximately March 1 through September 30, Western snowy plovers use local beaches to lay eggs and rear their young. Therefore, construction activities are required to be concluded before the Western snowy plovers begin their nesting season between March 1 and September 30, 2010.	Construction activities shall be concluded before the Western snowy plovers begin their nesting season between March 1 and September 30, 2010.	Owner/ Applicant	Prior to com- mence- ment of use.	
Health Department Environmental Health Division						
7.		EHSP001 -STANDARD SEPTIC SYSTEM MODIFICATION (NON-STANDARD) Submit plans to the Environmental Health Division showing the locations of all existing septic system modifications proposed on the property. All modifications shall be compliant with Monterey County Code, Title15, Chapter 15.20. A permit for the system modifications shall be obtained from the Monterey County Health Department. (Environmental Health)	Submit plans to the Environmental Health Division for review and approval. An appropriately licensed contractor shall install the septic tank risers. Pay all applicable fees to the Environmental Health Division.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of a grading permit.	

END OF CONDITIONS



BASIS OF ELEVATIONS
 ELEVATIONS SHOWN HEREON ARE BASED ON POINT 175 MONTEREY COUNTY DEPARTMENT OF PUBLIC WORKS - MONTEREY COUNTY BRASS DISK MARKED "MOLERA 2 1988", SET ON CORNER OF BRIDGE #122 O TEMPLADERA SLOUGH MILE POST 2.08 --487 FEET NORTH OF MONTEREY DUNES WAY. --4248 (0.60 MI.) S/W OF INTERSECTION MOLERA RD. & HWY 1.
 ELEVATION = 8.748' (NGVD29)

- NOTES:
1. EROSION SCARPS ARE SHOWN AS MAPPED BY ROGERS E. JOHNSON & ASSOCIATES.
 2. BUILDING LOCATIONS ARE SHOWN AS MAPPED BY ROGERS E. JOHNSON & ASSOCIATES.
 3. PROPERTY LINES SHOWN FROM SUBDIVISION RECORD MAPS
 4. SEPTIC SYSTEM FACILITIES SHOWN AS DEPICTED ON ORIGINAL IMPROVEMENT PLANS.
 5. CROSS SECTION SURVEYS AND ELEVATION CONTROL BY DUNBAR & CRAIG LAND SURVEYORS.
 6. APPROXIMATE VOLUME OF IMPORTED SAND FILL = 1970 CUBIC YARDS.

0 40 80 120 160
 SCALE: 1" = 40 FT

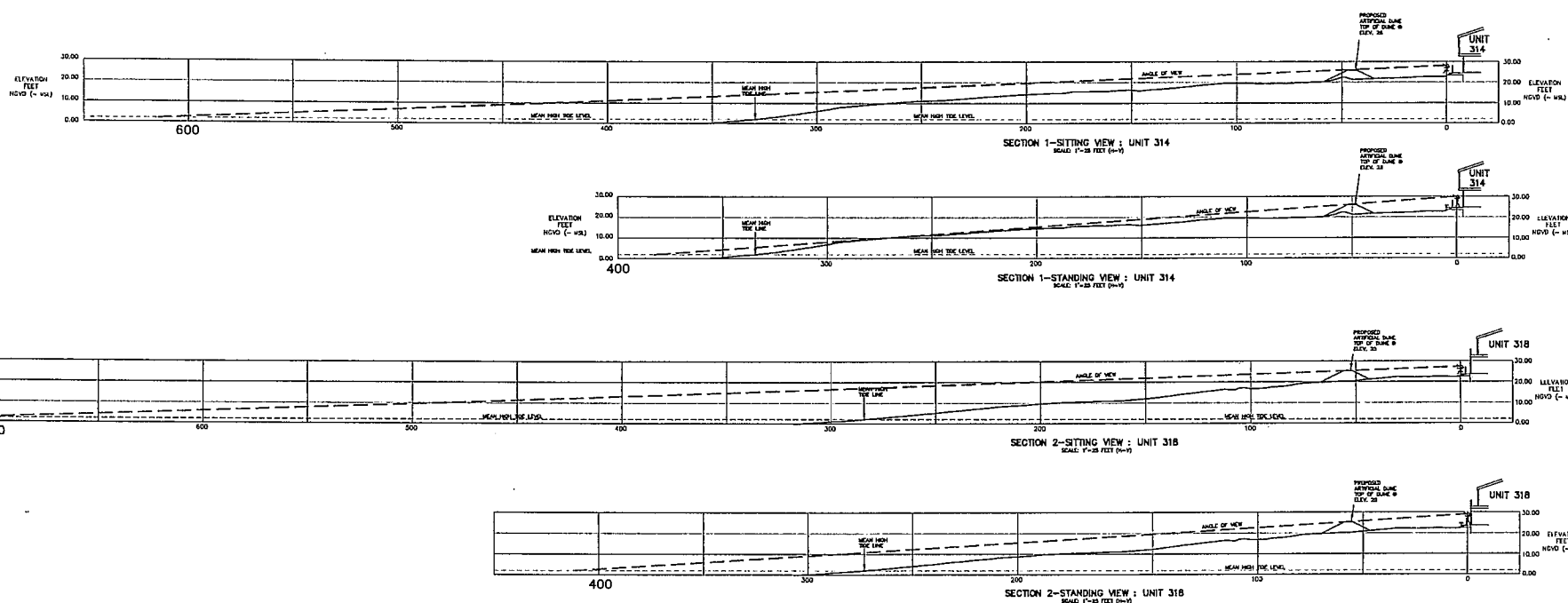
PRELIMINARY

REVISIONS	BY

VISUAL IMPACTS (FOR CLIENT REVIEW) MONTEREY DUNES COLONY

HARO, KASUNICH AND ASSOCIATES, INC.
CONSULTING CIVIL, GEOTECHNICAL & COASTAL ENGINEERS
118 EAST LAKE AVE., WATSONVILLE, CA 95076 (831) 722-4175

Date	5/4/09
Scale	1"=25 FT H ¹
Drawn	MF
Job	
Sheet	3
OF 2 SHEETS	



PRELIMINARY

BASIS OF ELEVATIONS
ELEVATIONS SHOWN HEREON ARE BASED ON POINT 175 MONTEREY COUNTY DEPARTMENT OF PUBLIC WORKS - MONTEREY COUNTY BRASS DISK MARKED "MOLERA 2 1958", SET ON CORNER OF BRIDGE #122 @ TEMBLADERA SLOUGH MILE POST 2.08 ~497 FEET NORTH OF MONTEREY DUNES WAY. ~4246 (0.80 MI.) S/W OF INTERSECTION MOLERA RD. & HWY 1.
ELEVATION = 8.748' (NGVD29)

NORTH COUNTY

Pacific
Ocean

Moss Landing

Elkhorn Slough Nat'l Estuarine Sanctuary

DOLAN RD

Moro Cojo Slough

Old Salinas River

Salinas River State Beach

PROJECT SITE

156

Castroville

183

MOLERA RD

NASHUA RD

Elkhorn Slough

Salinas River

Salinas River Nat'l Wildlife Area

MARINA

APPLICANT: MONTEREY DUNES COLONY ASSOC

APN: 229-041-004-000

FILE # PLN090261



300' Limit



2500' Limit



City Limits



0 2,000
Feet

