

MONTEREY COUNTY PLANNING COMMISSION

| Meeting: March 28, 2007; | Agenda Item |
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| Project Description: Combined Development Permit (PLN050296/Rocky Point Restaurant) to allow after-the-fact permits (Violation#: CE990087) consisting of: Coastal Administrative Permit to for development of accessory structures appurtenant to the principal allowed use including construction of two concrete decks, one retaining wall, and a redwood deck and gazebo, installation of outdoor lighting along the coastal bluff, replacement of water tanks on neighboring property (assessor's parcel number 243-262-003-000), and replacement/expansion of an existing restaurant sign; Coastal Development Permit for development within the critical viewshed; Coastal Development Permit for development on slopes of 30% or greater; Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (ESHA); and Design Approval. | |
| Project Location: 36700 Highway 1, Monterey Approximately 12 miles south of Carmel | APN: 243-262-004-000 |
| Planning File Number: PLN050296 | Name: Rocky Point Restaurant Horst Mieth, General Manager |
| Plan Area: Big Sur Coast Land Use Plan | Flagged and staked: No |
| Zoning Designation: VSC-D(CZ) and WSC(40) | |
| CEQA Action: Mitigated Negative Declaration | |
| Department: RMA- Planning Department | |

RECOMMENDATION: Staff recommends that the Planning Commission:

1. ADOPT the Mitigated Negative Declaration (**Exhibit E**) with the attached Mitigation Monitoring and Reporting Program (**Exhibit D**); and
2. APPROVE the Combined Development Permit (PLN050296/Rocky Point Restaurant) as described above based on Findings and Evidence (**Exhibit C**) and subject to proposed conditions (**Exhibit D**).

PROJECT OVERVIEW: This item was continued from February 14, 2007 at the request of the applicant. Horst Mieth, Rocky Point Restaurant's General Manager, requests after-the-fact permits for unpermitted modifications to an existing restaurant. These as-built modifications require entitlements allowing development within the critical viewshed, development on slopes of 30% or greater, and development within 100 feet of an Environmentally Sensitive Habitat Area (ESHA).

Staff prepared an Initial Study that evaluated technical studies prepared for this project site. This IS evaluates potential impacts relative to aesthetics, biology, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and public services. To reduce aesthetic impacts, mitigation measures require removal of the gazebo and shrub hedge, removal of flood lights installed along the coastal bluff, reducing the mass of the monument sign, and painting and screening the water tanks. Biological mitigation requires the removal of all non-native and invasive plant species from the project site and replacement with native vegetation. Geology and Soil mitigation measures require that the non-permitted structures be inspected by a qualified engineer to ensure Monterey County Building Code and Uniform Building Code requirements have been met. The Initial Study concludes that although the

project could create potentially significant impacts, these impacts can be mitigated to a level of insignificance; and therefore, a Mitigated Negative Declaration has been prepared. Standard conditions are attached to address additional issues relative to this project. The County's Environmental Health Division recommends including special conditions to address existing water quality issues on this site.

No unresolved issues remain. See **Exhibit A** for a more detailed discussion of the project.

OTHER AGENCY INVOLVEMENT: The following agencies have reviewed the project and those that are checked (“✓”) have comments and/or recommended conditions:

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| ✓ | Environmental Health Division |
| | Public Works Department |
| | Water Resources Agency |
| ✓ | Fire Department (CDF-Coastal) |
| | Parks Department |

All the above checked agencies and departments have reviewed this project. The proposed project was reviewed by the Big Sur Land Use Advisory Committee (LUAC) on January 10, 2006. The LUAC recommended approval of the project by a vote of 5-0-1 (**Exhibit F**), but expressed concerns relative to structural integrity, aesthetics of sign and lighting, safety (easement). Staff has addressed these concerns in the Initial Study and recommended findings and conditions.

Carl P. Holm, AICP, Acting Planning Services Manager
 (831) 755-5103; holmcp@co.monterey.ca.us
 March 14, 2007

Note: This project is appealable to the Board of Supervisors and the California Coastal Commission. Studies referenced as attachments are available for review upon request.

This report was prepared with assistance by Rincon Consultants, Inc

cc: Planning Commission (10); County Counsel; Environmental Health Division; Public Works; Monterey County Water Resources Agency; CDF-Coastal; Code Enforcement (D. Campos), Planning (M Novo), Carl Holm; Carol Allen; Applicant (H. Mieth); Representatives (M. Cochran/H. Appe), Interested Parties (J. Auburn, B. Nye, K. Knoll), California Coastal Commission, Project File

Attachments: Exhibit “A” Project Data Sheet
 Exhibit “B” Discussion of Proposed Project
 Exhibit “C” Recommended Findings and Evidence
 Exhibit “D” Recommended Conditions of Approval (Matrix)
 Exhibit “E” Initial Study/Mitigated Negative Declaration
 Exhibit “F” LUAC Meeting Minutes
 Exhibit “G” Project Location Map
 Exhibit “H” Project Plans/Justification

EXHIBIT B
DISCUSSION OF PROPOSED PROJECT
PLN050296/Rocky Point Restaurant
March 28, 2007

A. INTRODUCTION

Background

Rocky Point Restaurant is located between Highway 1 and the Pacific Ocean about 12 miles south of Carmel. The site has approximately 300 feet of coastal bluff frontage along the Pacific Ocean. This site is served by a single, 20-foot wide right-of-way over a separate parcel owned by the County of Monterey. A narrow asphalt driveway accessing the site from the west wide of State Highway One winds down hill about 700-foot to the restaurant parking area. Existing permitted development on the property includes a restaurant and one rental cottage with a carport/storage structure.

An application to construct an addition to the restaurant, expand the parking lot, and include a gift shop was approved September 25, 1991 (PC7185). The applicant was required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit (No. CA0049611) for an on-site wastewater treatment facility with discharge into the Pacific Ocean because the Monterey County Environmental Health Department discovered that the existing on-site leach field system was insufficient. This permit was amended to allow a 2-year extension in 1994, but PC7185 expired in 1996 because the owner did not obtain building permits.

A joint inspection of the property conducted by the Monterey County Planning and Building Inspection Department and Code Enforcement Department found that unpermitted improvements were made to the restaurant which included:

- Construction of a retaining wall and concrete deck adjacent to the southern end of the existing restaurant.
- Construction of a double staircase leading to a second concrete patio.
- Construction of a redwood deck south of the upper concrete deck.
- Construction of a gazebo and planting of a juniper hedge.
- Installation of floodlights along the bluff;
- Installation of outdoor lighting in the trees surrounding the property;
- Installation of lighting along the entrance road guardrail.
- Replacement of a single metal water tank with two plastic tanks and replacement of water lines on 30% slope. These tanks are located on the neighboring parcel (owned by the County of Monterey).
- Installation of a new restaurant sign including expansion to include rock pillar frame with a wood trellis top.

This work was performed in coastal bluff habitat and on slopes exceeding 30%. In addition, these features are located within the critical viewshed of Big Sur. None of the necessary planning or building permits were obtained prior to beginning this work so a code violation case was opened (CE990087). One violation, the installation of a below-deck furnace, has since been

corrected through removal of the furnace. The remaining violations have not been corrected and the applicant requests the necessary planning approvals to allow these improvements to remain.

In June 2004, Cingular Wireless instigated an application for the installation of telecommunications facilities on portions of both the Rocky Point Restaurant property and adjacent County property along with plans to address Rocky Point Restaurant code violations. In order to move the Cingular application forward, the County agreed to separate the application into individual permits and the Rocky Point-Cingular permit (PLN030313) was approved by the Planning Commission in 2006, subject to a condition that final activation could not occur until the code violations were cleared (PLN050296/Rocky Point Restaurant).

Project Description

The site is designated as Commercial Facilities Outside Rural Community Centers and zoned as Visitor Serving Commercial, Design Control District (VSC-D). The site is bordered to the west by the Pacific Ocean and to the north, south, and east by County property. The adjacent County property, on which the water tanks are located, is designated as Watershed and Scenic Conservation, 40 acres/unit maximum density (WSC/40) and is currently undeveloped. Highway 1 borders the site to the east, just beyond the County-owned land. This site is located within the Big Sur Coast Land Use Plan area and is developed with a restaurant facility (the Rocky Point Restaurant).

The project consists of a Combined Development Permit (PLN050296/Rocky Point Restaurant) to allow after-the-fact permits (Violation#: CE990087) consisting of:

- Coastal Administrative Permit to for development of the following accessory structures appurtenant to the principal allowed use:
 - Construction of a 620 square-foot upper concrete deck and slightly smaller concrete deck 8-feet below with a retaining wall (measuring 8-feet tall by 42-feet wide) between the upper and lower deck adjacent to the southern end of the restaurant. A staircase was installed on each side to connect the upper and lower decks. The staircases and lower deck were constructed on slopes exceeding 30% and within 100 feet of coastal sage scrub. Coastal sage scrub habitat includes dune buckwheat habitat, which is habitat for the endangered Smith's blue butterfly. Therefore, this is considered an environmentally sensitive habitat area (ESHA).
 - Construction of a 514-square foot redwood deck and installation of a juniper hedge (now 6 feet tall) adjacent to the deck to screen the development. Both features extend into the critical viewshed and the redwood deck extends over slopes exceeding 30% with a height of approximately 5-feet at the tallest point.
 - Construction of an 8-foot gazebo on the redwood deck that extends into the critical viewshed.
 - Installation of spot-lighting along the coastal bluffs and within trees around the restaurant adversely affects the nighttime views within the critical viewshed. Electrical conduit for the spot-lighting on the bluffs was placed above ground through an area of coastal sage scrub (ESHA).
 - Installation of a two water tanks as an upgrade to one existing water tanks on neighboring property (assessor's parcel number 243-262-003-000). This action

required construction on slopes exceeding 30% and relocation of an existing fire hydrant and water line, which occurred within an area of coastal sage scrub (ESHA).

- Modification of the restaurant sign with different color scheme and expansion of the structure to include a rock pillar frame that increases the amount of surface area within the critical viewshed.
- Coastal Development Permit for development within the critical viewshed;
- Coastal Development Permit for development on slopes of 30% or greater;
- Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (ESHA); and
- Design Approval.

B. PROJECT ANALYSIS

LAND USE AND DENSITY

The as-built modifications to the Rocky Point Restaurant did not change the Land Use or density of the project site. The project would be consistent with the Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan, Title 20 (CIP).

DEVELOPMENT STANDARDS

The proposed project is consistent with applicable development standards for the VSC-D(CZ) and WSC(40) zoning districts (Chapter 20.17 and 20.22) as follow:

- Site Coverage. The maximum building site coverage allowed in the VSC district is 50%, excluding parking and landscaping. For a 2.5-acre site (108,900 square feet), this would allow a maximum of 54,450 square feet of lot coverage. The restaurant modifications, which took place in the portion of the site designated VSC, added two concrete patios and one redwood deck to the property. The approved restaurant, rental cottage and carport have a combined footprint of about 4,815 square feet (4.4% coverage). Approximately 1,500 square feet of new terrace/deck areas would be included in this calculation. With the proposed as-built modifications, building site coverage would be about 6%.
- Setbacks. Setbacks for development in the VSC district are established by the approval of the General Development Plan where such plan is required. Setbacks for development where a General Development Plan is not required shall be established by the Appropriate Authority through the project review process based on: surrounding land use; provision of adequate parking and landscaping; other site design features. The as-built restaurant modifications are in an area that would not impact setbacks.
- Height. Allowed height measured from the average natural grade for the VSC district is 35 feet. Allowed height measured from the average natural grade for the WSC district is 25 feet. None of the restaurant modifications exceeded either height restriction.

CRITICAL VIEWSHED

Staff determined that the subject site is located within the critical viewshed, which is defined as everything within sight of Highway 1 and major public viewing areas (including turnouts). Section 3.2.5.A of the LUP identifies Rocky Point Restaurant as a Rural Service Center that is afforded some exception to the critical viewshed policies. Existing commercial facilities are

encouraged to expand and improve existing buildings as a desirable means of meeting growth in demand. Scattered commercial uses not in Rural Community Centers may expand existing secondary uses provided such expansion is small in scale and clearly subordinate and incidental to the primary use (Section 5.4.3 LUP); however, care must be taken relative to modifications that create noise or create visual impacts.

Replacement or enlargement of structures outside the critical viewshed shall be permitted as long as such replacement or enlargement does not cause the structure to intrude into critical viewshed (Policy 3.2.3.A.7 LUP). Where it is determined that a proposed development cannot be resited, redesigned, or in any other way made to conform to the basic critical viewshed policy, then the site shall be considered environmentally inappropriate for development (Policy 3.2.3.A.5 LUP). Ocean views from Highway 1 shall not be obscured by artificial berming/mounding or landscaping (Policy 3.2.3.B.1 LUP).

The installation of a second water tank and the construction of a lower retaining wall and patio deck, are not visible from Highway 1; and therefore, would be consistent with the scenic resource policies. However, the gazebo installed on the deck and the juniper hedge planted adjacent to this deck extend into the critical viewshed and are visible from Highway 1. Staff finds that the gazebo and hedge are inconsistent with the policy for development within the critical viewshed, and recommend their removal (Conditions 15 and 16). However, the restaurant could retain the terrace/deck structures as an expansion to the restaurant.

As part of the unpermitted additions made to the Rocky Point Restaurant, floodlights were installed along the bluff; outdoor lighting was installed in the trees surrounding the property; and lighting was installed along the driveway guardrail. The applicant has removed lighting along the driveway. Policy 3.2.2.3.B prohibits exterior light sources if such light source would be directly visible within the defined critical viewshed of LUP Section 3.2.2.1. Some of the lighting within the parking area is screened by the trees in which they are located. The remaining lighting, especially the bluff lighting, is within the scenic viewshed and could affect the nighttime views. Staff recommends that all of the bluff lighting be removed, and that the applicant work with staff to complete a lighting plan that establishes appropriate lighting for the parking area in a manner that will not impact the critical viewshed (Conditions 9 and 20).

An approved sign was removed at the driveway entrance and replaced with a new sign. The old sign was made of wood with a light blue background and white lettering. The new sign is also a wood sign that is approximately the same size as the old sign with additional colors including an orange sunburst design. Stone pillars and a wood terrace have been added around the sign increasing the overall mass. This sign is located along the right-of-way of Highway One and is within the critical viewshed. Staff finds that replacing a sign with a sign of similar material and size is consistent with the LUJP policies; however, staff cannot support the expansion to include the pillars and terrace and recommend this part of the structure is removed (Condition 17).

Landowners will be encouraged to grant scenic easements to the County over portions of their land in the critical viewshed (Policy 3.2.3.A.8 LUP). Staff requests that the areas west and south of the restaurant be placed into a scenic easement in order to protect the critical viewshed of Big Sur (Condition 11).

Staff finds that the project, as conditioned, is consistent with the Scenic Resource policies of the Big Sur LUP.

ESHA

To approve development within any of sensitive habitat areas the County must find that disruption of a habitat caused by the development is not significant (Policy 3.3.2.1 LUP). The LUP is designed to limit the area of disturbance in order to maximize the maintenance of the natural resources and topography of the site. As such the policies favor structural designs which achieve these goals (Policy 3.3.2.4 LUP).

Water lines and electrical lines were placed above ground to avoid trenching through ESHA and on slopes. This approach has minimized biological resource impacts and helped to avoid erosion. **Conditions 8, 12, and 21** require the use of appropriate native species in proposed landscaping (Policy 3.3.2.9 LUP).

Staff finds that the project, as conditioned, is consistent with the ESHA policies of the Big Sur LUP.

SLOPE

All development shall be sited and designed to conform to site topography and to minimize grading and other site preparation activities. Applications for grading and building permits and applications for subdivisions shall be reviewed for potential impacts to on-site and off-site development arising from geologic and seismic hazards and erosion (Policy 3.7.3.1 LUP). In order to approve development on slopes of 30% or more, the County must find that either a) there is no feasible alternative which would allow development to occur on slopes of less than 30%; or b) the proposed development better achieves the goals, policies and objectives of the Monterey County Local Coastal Program than other development alternatives (Section 20.64.230.E CIP).

Geologic and hydrologic reports were prepared for the project site in 1989 as part of an application. There are minor geologic concerns in the area where improvements were made, but the geologic report includes recommendations to address these concerns. Provided the retaining wall work was done in accordance with these recommendations, creating a retaining wall for a lower terrace better achieves the policies for preserving scenic resources. The work is located over 100 feet from the coastal bluff, and conditions are included to make sure the project would not impact bluff stability.

Staff finds that the project, as conditioned, is consistent with the slope policies of the Big Sur LUP (**Conditions 22 and 23**).

LUAC

The proposed project was reviewed by the Big Sur Coast Land Use Advisory Committee (LUAC) on January 10, 2006 (**Exhibit F**). This LUAC recommended approval of the project by a 5-0-1 vote. The LUAC did not recommend project conditions, but expressed the following concerns:

- 1) Gazebo, Patio & Decks. Concerns were expressed as to the structural integrity and engineering since the retaining wall cuts into a steep slope.
 - 2) Sign. Request that the applicant return with a sign design and lighting plan for separate Design Approval. Concern about vehicle safety within Caltrans easement.
 - 3) Water Tanks. Request documentation to verify easement for tanks being on County property. Question if tank capacity meets Fire Code.
 - 4) Lighting. Comment to review lighting plan impact for visibility from Highway 1.
- Staff addressed these issues in the Initial Study prepared for this project.

CEQA

An Initial Study was prepared that evaluated issues relative to aesthetics, biology, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and public services. The applicant provided technical reports by consulting professionals relative to biological resources, cultural resources, and geological resources. Staff concludes that the project design and standard conditions of approval relative to cultural resources, hazards and hazardous materials, and hydrology and water quality would address potential impacts. However, mitigation measures are necessary for aesthetic resources, biological resources, and geology and soil resources to address potential resource impacts.

The site is served by a water system that is served by a spring. Although the project may involve minor incremental increase in water use, the Environmental Health Department has determined that the as-built restaurant modifications would not require an amended water system permit.

The Initial Study finds that although the project could create potentially significant impacts, these impacts can be mitigated to a level of insignificance; and therefore, recommends that a Mitigated Negative Declaration be prepared. The Initial Study/Mitigated Negative Declaration was circulated between January 3 and February 1, 2007. No comments were received prior to completing this staff report.

Pursuant to the California Code of Regulations, Title 14, Section 735.59(c), staff finds that when the record is considered as a whole, there is no evidence that the proposed project will have the potential for adverse effects on wildlife resources or habitat upon which the wildlife depends. Staff finds that the discussion of ESHA requires the applicant to pay the California Department of Fish and Game (DFG) Fee.

EXHIBIT C
RECOMMENDED FINDINGS AND EVIDENCE
PLN050296/Rocky Point Restaurant
March 28, 2007

1. **FINDING – CONSISTENT WITH PLAN POLICIES:** The subject Combined Development Permit (PLN050296/Rocky Point Restaurant) conforms to the plans, polices, requirements and standards of the Big Sur Coast Land Use Plan and the Monterey County Coastal Implementation Plan, Part 3 (Chapter 20.145 MCC).

EVIDENCE:

- (a) **Land Use.** The subject restaurant is located on a site that is designated Visitor Serving Commercial, Design Control (VSC-D). Water tanks and access for the restaurant are located on a site owned by the County of Monterey that is designated Watershed and Scenic Conservation (WSC/40). The entire project is located in the coastal zone and is subject to policies and regulations of the Big Sur Land Use Plan and Coastal Implementation Plan.
- (b) **Zoning.** The subject site is located within the designated Visitor Serving Commercial VSC(CZ) and the designated Watershed and Scenic Conservation WSC/40-D(CZ) and the Design Control Zoning district in the Coastal Zone.
- (c) **Plan Conformance.** Planning staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
- 1) 1982 Monterey County General Plan, as amended.
 - 2) Big Sur Coast Land Use Plan (LUP)
 - 3) Chapter 20.145 (Part 3) of the Monterey County Coastal Implementation Plan (CIP)
 - 4) Chapter 20.17 of the Monterey County Zoning Ordinance relative to regulations for the Watershed and Scenic Conservation “WSC(40)” district in the coastal zone.
 - 5) Chapter 20.44 of the Monterey County Zoning Ordinance relative to regulations for the Visitor Serving Commercial “VSC-D(CZ)”.
 - 6) Chapter 20.44 of the Monterey County Zoning Ordinance relative to Design Control Zoning District.
 - 7) Chapter 20.64.230 MCC – Regulations for Development on Slopes in Excess of 30%.
 - 8) Chapter 20.70 MCC – Coastal Development Permit.
- The project, as conditioned, is consistent with applicable plans and policies of the Big Sur Land Use Plan (LUP), Coastal Implementation Plan, Part 3 (Chapter 20.145); Monterey County Subdivision Ordinance (Title 19), Monterey County Grading Ordinance (Title 16), and the Monterey County Zoning Ordinance (Title 20/Coastal Implementation Plan, Part 1) which designates this area as appropriate for visitor serving commercial.
- (d) **Site Description.** Rocky Point Restaurant LLC owns a 2.75-acre site (Assessor’s Parcel Number 243-262-004-000) and has an existing restaurant and parking lot developed in the site. Monterey County owns an 8.87-acre site (Assessor’s Parcel Number 243-262-003-000). County property has water storage tanks for the

restaurant and overhead utility lines (poles). Access is provided off Highway 1 by a long narrow driveway into the restaurant parking lot.

- (e) Project Description. The proposed project (PLN050296/Rock Point Restaurant) consists of obtaining a Coastal Administrative Permit and Design Approval for as-built modifications to the existing restaurant, including the construction of two concrete decks and one retaining wall, construction of a redwood deck and gazebo, installation of outdoor lighting, installation of a water tanks, and replacement of an existing restaurant sign; a Coastal Development Permit for development within the critical viewshed; a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (ESHA).
- (f) Legal Lot. The subject property is a legal lot of record since there is an existing permitted structure on the subject lot.
- (g) Visual Resources. The subject site is located within the critical viewshed, which is defined as everything within sight of Highway 1 and major public viewing areas. However, Policy 3.2.5.A identifies the Rocky Point Restaurant as a Rural Service Center, which is subject to careful siting and design controls provided in Policy 5.4.3 LUP. *See Finding #5*.
- (h) Archaeology. As conditioned, the project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development in archaeologically sensitive areas (Section 20.145.120 BS CIP). County resource maps identify the area to be highly sensitive to archaeology finds. An archaeological survey was conducted within the subject parcel in 1987. This survey did not yield any cultural properties. The study concluded that the restaurant property does not contain evidence of potentially significant archaeological resources. In addition, no unidentified cultural resources were known to be impacted during construction or installation of the as-built restaurant modifications and no additional disturbance is proposed (Section 20.145.120.B.5 CIP).
- (i) Environmentally Sensitive Habitat. The project site consists of coastal bluff scrub that has been disturbed through fire and other development. A mitigation measure requires abatement of invasive plant species within the project area. As conditioned, the proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with environmentally sensitive habitats (Section 20.145.040 CIP).
- (j) Development on Slopes over 30%. The proposed project includes development on slopes over 30% for which no alternative to avoid the slope exists and which also better meets the goals and policies of the Big Sur Coastal Land Use Plan. Development on slopes in excess of 30% requires a Coastal Development Permit (Section 20.64.230.C.1 CIP) in order to evaluate the best location for development given the site constraints. The Planning Commission has determined that no feasible alternative exists that would avoid the development on 30% slope and that the project design meets the goals and policies on the Land Use Plan by reducing potential hazards (Section 20.64.230.E CIP).
- (k) Violation. The subject property has an open Code Enforcement case (CE990087) for work completed without proper permits. Zoning violation abatement costs were paid with the application. Conditions are proposed to address the violations

and bring the property into compliance. The violations can be cleared once the applicable conditions have been met.

- (l) LUAC. On January 10, 2006, the Big Sur Coastal Land Use Advisory Committee voted 5-0-1 to recommend approval of the proposed project. The committee expressed concern for visual impact, exterior lighting, soil stability, and exotic plants, but generally found that the applicant met all requirements. Standard conditions are included that address these concerns.
- (m) Site Visit. Project planners conducted multiple on-site inspections to verify that the subject project conforms to the plans and reports listed above.
- (n) Application. The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection department for the proposed development, found in Project File PLN050296/Rocky Point Restaurant. The text, policies, and regulations in the above documents have been evaluated during the course of the review of the applications. No conflicts were found to exist. No communications were received during the course of review of the project to indicate that there is any inconsistency with the text, policies, and regulations in these documents.

2. **FINDING – SITE SUITABILITY:** The site is adequate for the as-built restaurant modifications.

EVIDENCE:

- (a) Agency Review. The project has been reviewed for suitability by staff from Planning and Building Inspection Department, Monterey County Water Resources Agency, Monterey County Public Works Department, Environmental Health Department, Fire Department, and the Parks Department. There has been no indication from these agencies that the site is not suitable for the proposed development. Recommended conditions have been incorporated.
- (b) Sewage Disposal. The project would not result in an increase in population, structures or housing. Therefore, the project would not require sewage disposal.
- (c) Water Supply. As per communication with the Environmental Health Department, the as-built restaurant modifications would not require an amended water system permit. Therefore, adequate water supply facilities exist or are readily available to the site. Appropriate recommendations for the project are contained in File No. PLN050296.
- (d) Professional Reports. Technical reports by outside geotechnical, biological, and cultural consultants indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the use proposed. Findings and recommendations from the reports prepared by these professionals have been incorporated into the analysis and conditions. All technical reports are in Project File PLN050296.
- (e) Traffic. The project would not impact local traffic, emergency access, or parking, nor would it impact any air traffic patterns or conflict with adopted transportation policies, plans, or programs (Policy 5.4.3.E.9 LUP).
- (f) Staff site visit and project photos.
- (g) Project File. The application, plans, photographs and support materials submitted by the project applicant to the Monterey county Planning and Building Inspection

Department for the proposed development, found in the project file (PLN050296/Rocky Point Restaurant).

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) Agency Review. The project was reviewed by Planning and Building Inspection Department, Monterey County Water Resources Agency, Monterey County Public Works Department, Environmental Health Department, Fire Department, and the Parks Department. The respective departments and 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials.
- (b) Professional Reports. Recommended conditions and modifications from consulting geotechnical consultants provide additional assurances regarding project safety. These technical reports are in Project File PLN050296.
- (c) Preceding findings and supporting evidence.

4. **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 described as an area where the Local Coastal Program requires public access (Figure 2 in the Big Sur Coast Land Use Plan).
- (b) There has been historic public use of the driveway access and parking lot for the Rocky Point Restaurant providing public access to the coastline.
- (c) 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 (Section 20.144.150 CIP). No additional 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.B of the Monterey County Coastal Implementation Plan, can be demonstrated.

5. **FINDING - VISUAL RESOURCES:** The project as proposed, conditioned, and mitigated is consistent with policies of the Big Sur Coast Land Use Plan dealing with visual resources and will have no significant impact on the public viewshed.

EVIDENCE:

- (a) The subject parcel is visible from Highway 1 and is therefore located in the critical viewshed as defined by Big Sur Coast Land Use Plan (LUP) Policy 3.2.2. Policy 3.2.5.A LUP creates an exception for Rural Service Centers and identifies the Rocky Point Restaurant as one of these centers. Rural Service Centers are subject to careful design and siting controls provided in Policy 5.4.3.E LUP.
- (b) Although the Rocky Point Restaurant is located outside of the Rural Community Center, it is considered a conforming use under the Big Sur Land Use Plan (Policy 5.4.3.E.1 LUP). Commercial uses such as this may expand secondary uses provided such expansion is small in scale and clearly subordinate and incidental to the primary use (Policy 5.4.3.E.7 LUP). The project includes after-the-fact permits for a deck/patio area to serve restaurant customers outside.
- (c) Installation of a second water tank and construction of a lower retaining wall and patio deck are not visible from Highway 1; and therefore, are consistent with the BSC LUP Policy 3.2.3.A.7. However, the gazebo and juniper hedge (planted adjacent to the deck) extend 6-8 feet into the critical viewshed (BSC LUP Policy 3.2.3.A.7). Back lighting using flood lights along the bluff edge create a glare toward the Highway. Conditions require removal of the gazebo, the hedge, and flood lighting along the bluffs, and the project will include removal of non-native and invasive species that would be replaced with native species that blend into the surroundings (Policy 3.2.3.A.2 LUP).
- (d) The Rocky Point Restaurant sign, located on Highway 1 north of the restaurant driveway, was modified to include a rock pillar frame. The addition of the stone pillar frame increases the sign's visibility from Highway 1. This expansion creates a larger obstruction of coastal views as well as views of traffic from the south on Highway 1. Sign modifications are inconsistent with Policies 5.4.3.E.9 and 3.2.3.A.7 LUP.
- (e) Mitigation measures included in the Initial Study, including removal of the gazebo, removal of the juniper hedge, and replacement of the restaurant sign, would reduce impacts on the critical viewshed. As conditioned, the project is consistent with policies of the Big Sur Coastal Implementation Plan (CIP) dealing with the critical viewshed from Highway 1 (Section 20.145.030 BS CIP).
- (f) Staff site visit and project photos.
- (g) Application plans and materials located in project file number PLN050296.

6. **FINDING - CEQA:** On the basis of the whole record before the Monterey County Board of Supervisors, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

EVIDENCE:

- (a) **Initial Study.** On May 19, 2006, Monterey County Planning and Building Inspection Department completed an Initial Study pursuant to the California Environmental Quality Act (CEQA). This Initial Study identified potentially significant impacts to aesthetics, biological resources, and geology and soils. Site investigations and technical reports determined that there are clearly no significant impacts that would occur as a result of the proposed project. The

Initial Study is on file in the office of Resource Management Agency (RMA) and is hereby incorporated by reference (PLN050296).

- (b) Mitigated Negative Declaration. A Mitigated Negative Declaration was filed with the County Clerk on December 28, 2006, noticed for public review, and circulated to the State Clearinghouse (SCH #: 2006121117) from December 29, 2006 to January 29, 2007. The evidence in the record includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:
- (1) The application.
 - (2) Biological Assessment for the Cell Tower Project at the Rocky Point Restaurant. Dennis Duffy & Associates. March 29, 2004.
 - (3) Cultural Resources Study of the Proposed AT&T Project Site No. 9600016009A – Rocky Point Restaurant. Prepared for ATC Associates, Inc. Prepared by Historic Resource Associates. October 2003.
 - (4) Geological Report, Rocky Point Restaurant ATT Telecommunications Facility. Cleary Consultants, Inc. March 31, 2004.
 - (5) Preliminary Geologic Report for a proposed addition to the Rocky Point Restaurant and construction of additional parking. Foxx, Nielson, and Associates. July 18, 1989.
 - (6) Hydrologic Study of Potential Water-Use Intensification by Rock Point Restaurant, Central Coast, Monterey County, California. Prepared by Nicholas M. Johnson, Consulting Hydrogeologist, California Registered Geologist. July 1989.

These reports are on file in the offices of the Planning Department (File Reference PLN050296) and are incorporated by reference herein.

- (c) Comments. Comments received during the review period or at the hearing before the Planning Commission have been considered as part of the proposed project. To date, comments were received from the Monterey Bay Unified Air Quality Control District (AQCD) and the California Department of Fish and Game (DFG). The comments made some technical corrections, but no substantive issues were raised. The Planning Commission considered public testimony and the initial study at a hearing on March 28, 2007.
- (d) Determination. After sufficiently considering all comments and testimony along with the technical reports and supporting project information, the Planning Commission adopted a mitigated negative declaration (Section 15074 CEQA).
- (1) No adverse environmental effects were identified during staff review of the development application during site visits.
 - (2) There are no unusual circumstances related to the project or property that would require additional review.
 - (3) This project does not require implementation of mitigation measures.

7. **FINDING - FISH & GAME FEE:** For purposes of the Fish and Game Code, the project will not have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends.

EVIDENCE:

- (a) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. The site supports central (Lucian) coastal scrub habitat, which contains dune buckwheat (*E. parvifolium*), a host plant for the federally Endangered Smith's blue butterfly.
- (b) State Department of Fish and Game will review the Mitigated Negative Declaration to comment and recommend necessary conditions to protect biological resources in this area. Therefore, staff recommends that the project will be required to pay the State fee of \$2,500 plus a \$50 processing fee to the County Clerk.
- (c) Initial Study and Mitigated Negative Declaration contained in File No. PLN050296/Rocky Point Restaurant.

8. **FINDING - APPEALABILITY:** The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE:

- (a) Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).
- (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1). The project requires a Coastal Development Permit making it subject to appeal by the California Coastal Commission. It is also located between the ocean and the first public road.

Exhibit D
Monterey County Planning and Building Inspection
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: ROCKY POINT RESTAURANT

File No: PLN050296

APNs: 243-262-004-000

Approval by: Planning Commission

Date: March 28, 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> |
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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) |
|---------------------|---------------|--|---|----------------------------------|---------------------------------|--|
| 1 | | <p>PD001 - SPECIFIC USES ONLY This Combined Development Permit (PLN050296/Rocky Point Restaurant) to allow after-the-fact permits (Violation#: CE990087) consists of: Coastal Administrative Permit to for development of accessory structures appurtenant to the principal allowed use including construction of two concrete decks, one retaining wall, and a redwood deck and gazebo, installation of outdoor lighting along the coastal bluff, replacement of water tanks on neighboring property (assessor's parcel number 243-262-003-000), and replacement/expansion of an existing restaurant sign; Coastal Development Permit for development within the critical viewshed; Coastal Development Permit for development on slopes of 30% or greater; Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (ESHA); and Design Approval. The property is located at 36700 Highway 1, Monterey (Assessor's Parcel Number 243-262-004-000), Big Sur Coast 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 | | <p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the <i>Planning Commission</i> for Assessor's Parcel Number 243-262-004-000 on March 28, 2007. The permit was granted subject to 27 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)</p> | 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 | | <p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</p> <p>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)</p> | 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/ Archaeologist | Ongoing | |

| 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) |
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| 4 | | <p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>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 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)</p> | <p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p> <p>4</p> | Owner/ Applicant | 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 | |

| <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 | | PD005 - FISH AND GAME FEE-NEG DEC/EIR Pursuant to the State Public Resources Code § 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning Department) | The applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of the RMA - Planning Department. | Owner/ Applicant | Within 5 working days of project approval. | |
| | | | If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of the RMA - Planning Department. | Owner/ Applicant | Prior to the recordation of the final map, the start of use or the issuance of building or grading permits | |
| 6 | | PD006 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department) | 1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement. | Owner/ Applicant | Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first. | |

| <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> |
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| 8 | | <p>PD012(B) - LANDSCAPE PLAN AND MAINTENANCE (OTHER THAN SINGLE FAMILY DWELLING)</p> <p>The site shall be landscaped. At least three (3) weeks prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping and shall include an irrigation plan. The landscaping shall be installed and inspected prior to occupancy. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA – Planning Department)</p> | <p>Submit landscape plans and contractor’s estimate to the RMA - Planning Department for review and approval. <i>Also see Condition 21</i></p> | Owner/ Applicant/ Licensed Landscape Contractor/ Licensed Landscape Architect | At least three (3) weeks prior to final inspection or occupancy | |
| | | | <p>All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.</p> | Owner/ Applicant | Ongoing | |
| 9 | | <p>PD014(C) – LIGHTING – EXTERIOR LIGHTING PLAN (BIG SUR)</p> <p>All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. 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, are prohibited.</p> | <p>Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.</p> | Owner/ Applicant | Prior to the issuance of building permits. | |

| <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> |
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| | | 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 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 Department, prior to the issuance of building permits. (RMA – Planning Department) | The lighting shall be installed and maintained in accordance with the approved plan. | Owner/ Applicant | Ongoing | |
| 10 | | PD016 – NOTICE OF REPORTS Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: " <i>Reports prepared for this parcel include: Biological Assessment prepared by Dennis Duffy & Associates dated March 29, 2004, Cultural Resources Study prepared by Historic Resource Associates dated October 2003, Preliminary Geologic Report prepared by Foxx, Nielson, and Associates dated July 18, 1989, Geological Report prepared by Cleary Consultants, Inc. dated March 31, 2004, and Hydrologic Study of Potential Water-Use Intensification prepared by Nicholas M. Johnson dated July 1989. All reports are on record in the Monterey County Planning Department Library. All development shall be in accordance with these reports</i> " (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. | |

| <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> |
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| 11 | | PD022 – EASEMENT – CONSERVATION AND SCENIC A conservation and scenic easement shall be conveyed to the County over those portions of the property where sensitive habitats, archaeological sites, etc. exist. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by, the Director of the RMA - Planning Department prior to issuance of grading and building permits. (RMA – Planning Department) | Submit the conservation and scenic 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 RMA - Planning Department for review and approval. | Owner/ Applicant/ Certified Professional | Prior to issuance of grading and building permits | |
| | | | Record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to the RMA – Planning Department. | Owner/ Applicant | Prior to final map, final inspection or commencement use | |
| 12 | | PD033 - RESTORATION OF NATURAL MATERIALS Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, subject to the approval of 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 plans to the RMA - Planning Department for review and approval. <i>Also see Condition 21</i> | Owner/ Applicant | Prior to commencement of use. | |
| 13 | | PD038 - WATER TANK APPROVAL The water tank shall be painted an earth tone color to blend into the area and landscaped (including land sculpturing and fencing, where appropriate), subject to the approval of the Director of the RMA - Planning | Submit proposed color of water tank and landscaping plans to the RMA - Planning Department for review and approval. <i>Also See Condition 19</i> | Owner/ Applicant | Prior to the issuance of grading or building permits | |

| <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> |
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| | | Department, prior to the issuance of building permits. (RMA – Planning Department) | Provide evidence to the Director of the RMA - Planning Department that the water tank has been painted and the landscaping has been installed according to the plans approved by the RMA - Planning Department. | Owner/ Applicant | Prior to the final inspection or occupancy. | |
| | | | All landscaped areas and fences shall be continuously maintained; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. | Owner/ Applicant | On-going | |
| 14 | | PD040 – CRITICAL VIEWSHED (BIG SUR) The applicant shall record a Scenic Easement over all portions of the subject parcel that are in the critical viewshed, including, but not limited to, all existing vegetated areas without which the development would be located within the critical viewshed, pursuant to Sections 20.145.030.A.2 (g) & (h) of the <i>Regulations for Development in the Big Sur Coast Land Use Plan</i> . (RMA – Planning Department) | Submit the scenic easement deed and corresponding map to the RMA - Planning Department for review and approval. | Owner/ Applicant | Prior to the issuance of grading or building permits | |
| | | | Record a map showing the approved scenic easement. | Owner/ Applicant | Prior to final map or commencement use | |
| 15 | 1 | PDSP001 - GAZEBO. The applicant shall remove the unpermitted gazebo from the critical viewshed. (RMA – Planning Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that gazebo has been removed. | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| 16 | 2 | PDSP002 - HEDGE. The applicant shall remove the juniper hedge adjacent the gazebo and replaced with lower profile vegetation so as to not intrude upon the critical viewshed. Landscaping in this location shall not exceed the height of adjacent redwood deck railings (approximately 36 inches). (RMA – Planning Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the juniper hedge adjacent the gazebo and replaced with lower profile vegetation. | Owner / Applicant | Prior to violation clearance and issuance of permits | |

| <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> |
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| 17 | 3 | PDSP003 - SIGN. The applicant shall remove the stone pillar frame from the restaurant sign. (RMA – Planning Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the stone pillar frame from the restaurant sign has been removed. | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| 18 | 4 | PDSP004 – LANDSCAPE SCREENING. Landscaping Plans shall be prepared by a qualified Landscape Architect which attempts to screen and blend the water tanks into the surrounding areas while preserving existing viewsheds. Landscaping shall consist of drought-tolerant native species. (RMA – Planning Department) | Submit landscape plan to the Department of Planning and Building Inspection for approval. | Owner / Applicant with guidance by a certified arborist or Landscape specialist. | Prior to issuance of building permit. | |
| 19 | 5 | PDSP005 – WATER TANK COLOR. The applicant shall paint the water tanks a non-reflective earth tone similar to the surrounding vegetation to reduce the visual contrast. (RMA – Planning Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the painted water tanks. Also See Condition 13 | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| 20 | 6 | PDSP006 - FLOODLIGHTS. The applicant shall remove the following unpermitted lighting including floodlights on the bluff, outdoor lighting in the trees surrounding the property, and outdoor lighting along the entrance road guardrail. (RMA – Planning Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the unpermitted lighting has been removed. | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| 21 | 7 | PDSP007 - REVEGETATION. The applicant shall remove all non-native, invasive plant species and revegetated with native vegetation, including dune buckwheat on the hillside adjacent to the restaurant and in the area surrounding the concrete patios, retaining wall, and redwood deck. (Planning and Building Inspection) | Applicant shall provide the Director of Planning and Building Inspection with proof that the site has been revegetated. Also See Condition 8 and 12 | Owner / Applicant | Prior to violation clearance and issuance of permits | |

| <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> |
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| 22 | 8 | PDSP007 - INSPECTION. The non-permitted structures shall be inspected by a qualified engineer to ensure that they have been designed and constructed according to the Monterey County Building Code and Uniform Building Code requirements. Should building code violations be found, the engineer would provide recommendations to reduce impacts that shall be implemented by the applicant. Suitable measures could include: reinforcing the structures, and/or removing and rebuilding the structures. (RMA – Planning Department and Building Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the site has been inspected. | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| 23 | 9 | PDSP007 -GEOTECHNICAL. A registered civil or geotechnical engineer shall inspect all non-permitted structures built to analyze liquefaction potential, landslide potential, erosion potential, and any other geologic related hazards. Should potential hazards be found, the registered civil or geotechnical engineer would provide recommendations to reduce impacts that shall be implemented by the applicant. Suitable measures could include: specialized design of foundations by a structural engineer; removal or treatment of liquefiable soils to reduce the potential for liquefaction; drainage to lower the groundwater table to below the level of liquefiable soils, in-situ compaction of soils; or other alterations to the ground characteristics. (RMA – Planning Department and Building Department) | Applicant shall provide the Director of Planning and Building Inspection with proof that the site has been inspected. | Owner / Applicant | Prior to violation clearance and issuance of permits | |
| FIRE PROTECTION | | | | | | |
| 24 | | FIRE008 - GATES All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet | 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. | |

| <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> |
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| | | wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. CDFFP-Coastal. | Applicant shall schedule fire dept. clearance inspection | Applicant or owner | Prior to final building inspection. | |
| 25 | | FIRE011 - ADDRESSES FOR BUILDINGS All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. CDFFP-Coastal. | Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans. | Applicant or owner | Prior to issuance of building permit. | |
| | | | Applicant shall schedule fire dept. clearance inspection | Applicant or owner | Prior to final building inspection | |

| <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> |
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| 26 | | <p>FIRE015 - FIRE HYDRANTS/FIRE VALVES A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall include a brass head and valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. CDFFP-Coastal.</p> | <p>Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.</p> | Applicant or owner | Prior to issuance of grading and/or building permit. | |
| | | | <p>Applicant shall schedule fire dept. clearance inspection</p> | Applicant or owner | Prior to final building inspection | |
| ENVIRONMENTAL HEALTH | | | | | | |
| 27 | | <p>EHSP01 – WATER SUPPLY The California Uniform Retail Food Facilities Law (CURFFL) Article 8, Section 114095 requires that all food facilities have a adequate, protected, pressurized, potable supply of water. The water supply shall be from a water system approved by the health officer and or the state department. The water supply shall conform with all pertinent regulation set forth in the California Safe Drinking Water Act, Title 22.</p> | <p>Contact the Environmental Health Division (EHD) for specific requirements regarding the appropriate water quantity issues</p> | Applicant or owner | On-going | |

| <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> |
|----------------------------|----------------------|--|--|---|---------------|---|
| | | (Environmental Health) | | | | |

