

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

REVISED 9/25/2007

RESOLUTION NO. 07036A

A. P. # 189-291-006-000

FINDINGS AND DECISION

In the matter of the application of
Monterey Fish Company, Inc. (PLN070254)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Use Permit (PLN070254) to rectify Code Enforcement File No. CE050182 to allow exterior modifications to the Del Monte Milk Barn, a designated historic resource which includes: the replacement of an existing exterior staircase to the second story (the Village Fish House Restaurant), the construction of a trash enclosure gate, and a redwood fence behind Village Fish House Restaurant 6 feet in height (materials and colors: redwood and pressure-treated wood, natural stain). The property is located at 13910 (formerly 27) and 13920 Carmel Valley Road, Carmel Valley, Carmel Valley Master Plan Area, and came on regularly for hearing before the Planning Commission on August 29, 2007.

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS AND EVIDENCE FOR THE USE PERMIT TO RECTIFY CODE
ENFORCEMENT FILE NO. CE050182**

- 1. FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Carmel Valley Master Plan, and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The property is located at 13910 (formerly 27) and 13920 Carmel Valley Road, Carmel Valley (Assessor's Parcel Numbers 189-291-006-000), Carmel Valley Master Plan Area. The parcel is zoned Light Commercial, Historic Resources with Design Control, and Site Plan Review zoning overlays "LC-HR-D-S". The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21, and is therefore suitable for the proposed development.
 - (c) Historic Resource or "HR" zoning regulations, Chapter 21.54 of the Monterey County Zoning Ordinance (Title 21), require review of the alteration of historical structures. Pursuant to Section 21.54.080.A a Use Permit is required to rectify Code Enforcement Case CE050182 to allow exterior modifications to the Del Monte Milk Barn, a designated historic resource which includes: the replacement of an existing exterior staircase to the second story (the Village Fish House Restaurant), the construction of a trash enclosure gate, and a redwood fence behind Village Fish House Restaurant 6 feet in height (materials and colors: redwood and pressure-treated wood, natural stain).

- (d) Design Control or "D" zoning requires design review of structures to assure the protection of the public viewshed, neighborhood character, and the visual integrity of certain developments without imposing undue restrictions on private property as provided at Chapter 21.44 of the Monterey County Zoning Ordinance (Title 21). As such, a Design Approval has been required. The project design, materials, and color treatments chosen for rectifying Code Enforcement File No. CE050182 have been resolved by the Historic Resources Review Board on August 2, 2007.
- (e) Site Plan Review or "S" zoning regulations require review of development in those areas of the County of Monterey where development, by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints, without imposing undue restrictions on private property. As provided by Section 21.45.040.C of the Monterey County Zoning Ordinance (Title 21), an Administrative Permit is not required to allow and construct the proposed changes as described in Condition No. 1.
- (f) The Carmel Valley Land Use Advisory Committee (LUAC) reviewed the Combined Development and General Development Plan amendments on July 2, 2007 and the code enforcement elements on August 6, 2007. The committee recommended approval on both dates. The minutes are attached as Exhibit J of the August 29, 2007 Staff Report.
- (g) The project was referred to the Historical Resources Review Board for review on July 5, 2007 and August 2, 2007 pursuant to Section 21.54.040 of the Monterey County Zoning Ordinance. A scoping meeting was held with members of the HRRB July 19, 2007 to review architectural / design concepts. The Board unanimously recommended approval a revised project on August 2, 2007.
- (h) Secretary of the Interior's Standards for the Treatment of Historic Properties.
- (i) The project planner conducted site inspections on June 27, 2007 and July 12, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
- (j) 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 PLN070254.

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, Carmel Valley Fire Protection District, Parks, 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) Technical reports by an outside historical consultant indicates that there are no physical or environmental constraints that would indicate that the site is not suitable for the proposed project. A "Historical Assessment (DRB 532A)" (LIB070379) was prepared by Anthony Kirk, Ph.D., Santa Cruz, CA July 27, 2007.
 - (c) The Historical Resources Review Board (HRRB) unanimously recommended approval at the meeting on August 2, 2007.
 - (d) Staff conducted site inspections on June 27, 2007 and July 12, 2007 to verify that the site is suitable for this use.
 - (e) Materials in Project File PLN070254.

3. FINDING: HISTORIC RESOURCES - The proposed project as conditioned, is consistent with the regulations for Historic Resources Zoning Districts, Section 21.54 of the Monterey County

Zoning Ordinance (Title 21) and will neither adversely affect the significant architectural features of the designated resource nor adversely affect the character, historical, architectural, or aesthetic interest or value of the designated resource and its site.

- EVIDENCE:** (a) The project site contains the building known as the "Del Monte Milk Barn" (located on 189-291-006-000) as well as three residential units located on the westernmost portion (located on Assessor's Parcel Number 189-291-005-000). The barn is designated as a local Historic Structure in the Greater Monterey Peninsula Area Plan; this building and the residential units are part of the original building complex developed on the property known as the "Upper Valley Hatton Dairy" built circa 1890. At the time, the complex served the upper Carmel Valley area as a dairy. As a locally designated Historic Structure, the barn qualifies as a Historical Resource.
- (b) On May 16, 2005, county staff received a complaint regarding the construction of external stairs on a historical structure, shortly thereafter Code Enforcement Case No. CE050182 was opened. On May 27, 2005 the County of Monterey Building Division posted a Stop Work Notice on Assessor's Parcel Number 189-291-006-000 or 27 E. Carmel Valley Road, Carmel Valley (the Del Monte Milk Barn) for constructing an approximately 11 foot high exterior stairs with a 10 foot long ramp at the top of stairs that accesses the second story of the historic building and an approximately 10 foot wide by 6 foot high arched redwood gate. County Code requires that no permit for any uses or construction be deemed complete or approved after a Notice of Violation is posted, unless that permit is necessary to rectify the violation (see Section 21.84.120 Monterey County Zoning Ordinance). To clear Code Enforcement Case No. CE050182 a Use Permit heard by the Planning Commission is required pursuant to the Historic Resources or HR zoning designation for projects that propose alteration(s) to designated historical structures.
- (c) The project was referred to the Historical Resources Review Board or HRRB for review on July 5, 2007 and August 2, 2007 pursuant to Section 21.54.040 of the Monterey County Zoning Ordinance. The minutes are attached as Exhibit D of the August 29, 2007 Staff Report. Attached as Exhibit E of the August 29, 2007 Staff Report is a Historical Consultant's Evaluation of the proposed activities, which was used to guide a scoping meeting held with members of the HRRB July 19, 2007 to review architectural / design concepts to achieve compliance with the Secretary of Interior Standards. The HRRB minutes and resolution are attached to the Staff Report as Exhibits F & G of the August 29, 2007 Staff Report. The Board unanimously recommended approval of a revised project on August 2, 2007 with the incorporation of condition as described in Condition No. 4.
- (d) Carmel Valley Land Use Advisory Committee unanimously recommended approval on July 2, 2007 and August 6, 2007.
- (e) Historic Resource or "HR" zoning regulations, Section 21.54 of the Monterey County Zoning Ordinance (Title 21).
- (f) Secretary of the Interior's Standards for the Treatment of Historic Properties.
- (g) The application and plans submitted for the use permit and design approval in project file PLN070254 at the Monterey County Resource Management Agency - Planning Department.

4. 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 15301 (Class 1) categorically exempts minor alterations to existing structures.

- (b) The "Del Monte Milk Barn" is designated a local historic structure; this building and the residential units are part of the original building complex developed on the property known as the "Upper Valley Hatton Dairy" built circa 1890. The period of significance of the structure is 1947-57. The structure has undergone several remodels and additions as cited in the "Historical Assessment (DRB 532A)" (LIB070379) prepared by Anthony Kirk, Ph.D., Santa Cruz, CA July 27, 2007. The Historical Resources Review Board or HRRB reviewed the project on July 5, 2007 and August 2, 2007 for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties. The HRRB finds the project consistent with Secretary of the Interior's Standards. The Planning Commission finds that project will not materially impair the historic resource as described by the California Environmental Quality Act (CEQA) Guidelines Section 15064.5.
- (c) No adverse environmental effects were identified during staff review of the development application during a site visit on June 27, 2007 and July 12, 2007.
- (d) See preceding and following findings and supporting evidence.

5. FINDING: NO VIOLATIONS - This Use Permit rectifies pending Code Enforcement Violation CE050182. Upon approval, 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. Approval of this application, PLN070254, and adherence to the conditions of approval rectifies Code Enforcement Case No. CE050182 for construction of an approximately 11 foot high exterior stair with a 10 foot long ramp at the top of the stairs that access the second story of a historic restaurant, an arched 10 foot wide by 6 foot high arched redwood gate, and the construction of 6 foot redwood fence with a lattice top behind the Village Fish House Restaurant.

- EVIDENCE:**
- (a) The applicants have applied for a Use Permit to allow an alteration to a designated historical structure as required by the Historic Resources zoning designation, Chapter 21.54 of the Monterey County Zoning Ordinance (Title 21) and to comply with those regulations and to complete the activities required to clear Code Enforcement File No. CE050182
 - (b) See evidence in Findings 1 and 3.
 - (c) Staff conducted site inspections on June 27, 2007 and July 12, 2007 to verify that 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 (Title 21) except the subject pending violation which is resolved by approval of this permit.
 - (d) Application, plans, and related support materials found in Project File PLN070254.

6. FINDING: HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

7. FINDING: APPEALABILITY - The decision on this project is appealable to the Board of Supervisors.

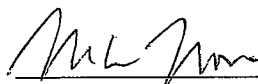
EVIDENCE: Sections 21.80.040(D) of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Planning Commission that said Use Permit (PLN070254) to allow the rectification of Code Enforcement Case No. CE050182 be granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 29th day of August, 2007, by the following vote:

AYES: Errea, Brown, Isakson, Padilla, Ottone, Rochester, Diehl, Sanchez, Salazar, Vandevere
NOES: None
ABSENT: None



MIKE NOVO, SECRETARY

A COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON OCT - 2 2007

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEPTEMBER 21, 2007.

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 and Building Inspection Department office in Salinas.

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

**Monterey County Resource Management Agency
 Planning Department
 Condition Compliance Reporting Plan for the
 Use Permit to Rectify
 Code Enforcement File No. CE050182**

Project Name: Monterey Fish Company Inc.

File No: PLN070254

APN: 189-291-006-000

Approved by: Planning Commission

Date: August 29, 2007

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

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY This Use Permit (PLN070254) allows the rectification of Code Enforcement Case No. CE050182 to allow exterior modifications to the Del Monte Milk Barn, a designated historic resource which includes: the replacement of an existing exterior staircase to the second story (the Village Fish House Restaurant), the construction of a trash enclosure gate, and a redwood fence behind Village Fish House Restaurant 6 feet in height (materials and colors: redwood and pressure-treated wood, natural stain). The property is located at 13910 (formerly 27) and 13920 Carmel Valley Road, Carmel Valley (Assessor's Parcel Numbers 189-291-006-000), Carmel Valley Master Plan Area. 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</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

		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)			
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice, which states: "A permit (Resolution 07036B) was approved by the Planning Commission for Assessor's Parcel Number 189-291-006-000 on August 29, 2007 . This permit is subject to 4 conditions, which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.
3.		PD004 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first

		<p>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>			and as applicable	
4.		<p>PDSP001 - HRRB RECCOMENDATION The applicant shall make the following changes as resolved by the Historic Resources Review Board on August 2, 2007:</p> <ul style="list-style-type: none"> ▪ The hand railing shall be replaced to be on top of the vertical posts and painted yellow ▪ Principal vertical posts in handrail shall be painted yellow ▪ Secondary vertical posts in handrail shall be painted weathered grey ▪ All metal support brackets shall be covered by a piece of wood ▪ A lattice board shall be installed to cover cross-stabilizing bars (4x4 posts) from front view ▪ Trash enclosure shall be painted weathered grey <p>(RMA - Planning Department)</p>	<p>The applicant shall comply with the recommendations of the HRRB as outlined in Condition No. 4 and shall submit photographic evidence of compliance to the RMA – Director of Planning within 30 days of project approval.</p>	Owner / Applicant	Within 30 days of project approval	

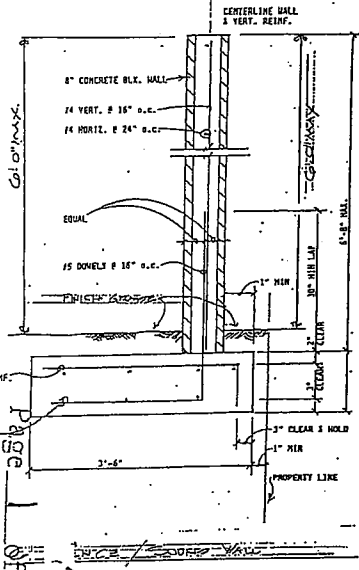
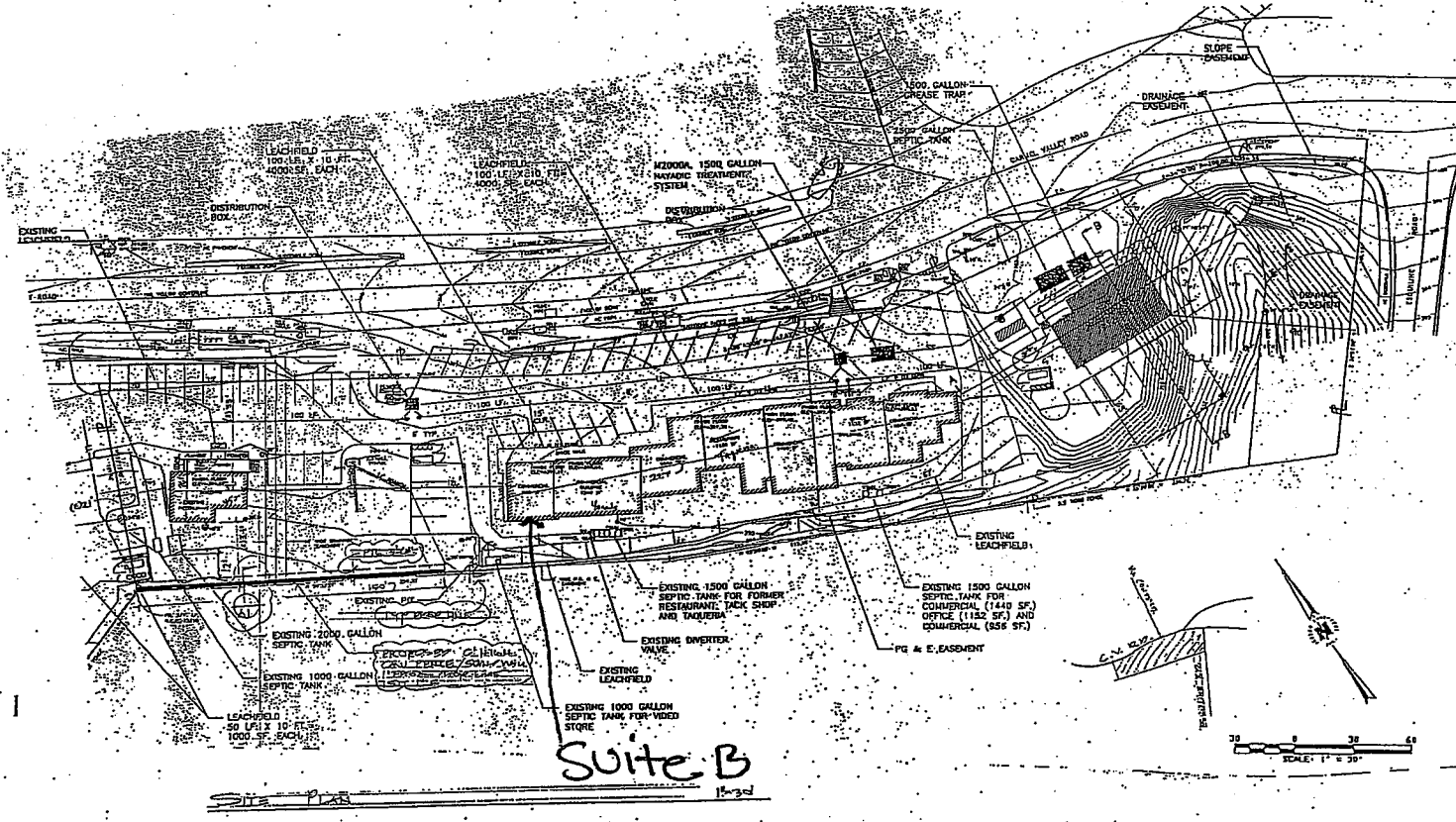
END OF CONDITIONS

REVISIONS	
NO.	DATE

ALEX OTT
CONSULTING ENGINEER
SEANIE CALIFORNIA 1341
1501 14TH ST
SAN CARMEL, CA 95060

CNU FENCE / SOUND WALL FOR:
WHITE OAKS PLAZE
13910 CARMEL VALLEY RD.
APN: 189-291-005-000

DATE: 6/11/07
SCALE:
DRAWN BY: Chris
PROJECT:
CHECKED BY:
DATE:



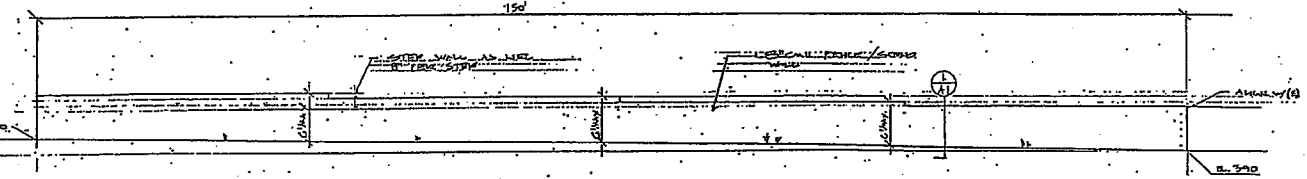
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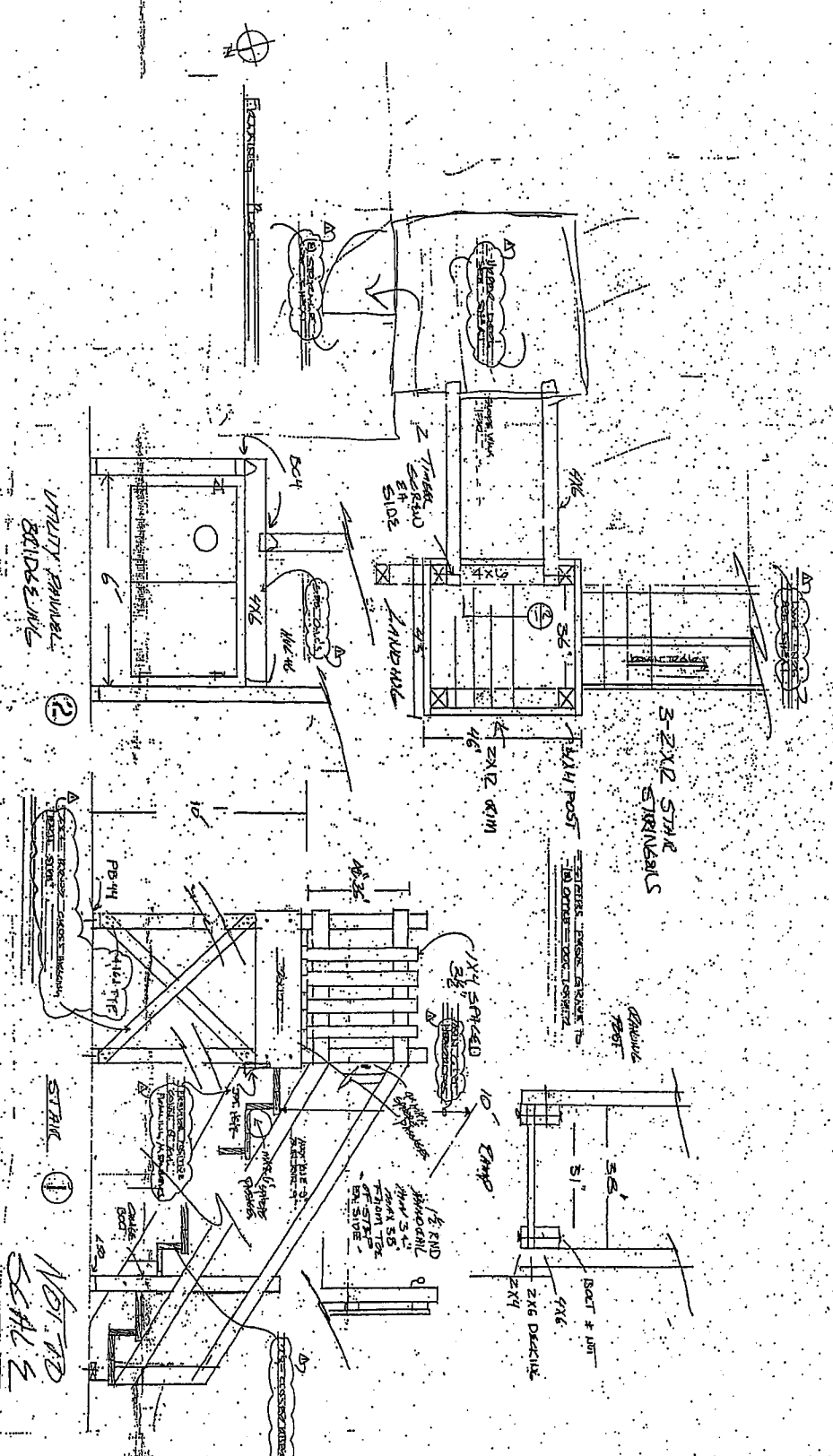
MONTEREY COUNTY ORDINANCES & REQUIREMENTS

- MCI. No person may tap into any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining written approval from the water purveyor supplying water to the hydrant from the Monterey County Health Department [section 6 (4), Ord. 3522].
- MCI. All hoses used in connection with any construction activities shall be equipped with a shutoff nozzle. When an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose to use, the nozzle shall be an automatic shutoff nozzle. [section 6 (K), Ord. 3522].
- MCI. No potable water may be used for compaction or dust control purposes in construction activities where there is a reasonably available source or reclaimed or other sub-potable water approved by the Monterey County Health Department and appropriate for such use. [section 6 (K), Ord. 3522].
- MCI. All such construction or work shall remain accessible and exposed for inspection purposes until approved by a Monterey County Building Inspector. It shall be the duty of the permit applicant to cause work to remain accessible for inspection purposes.



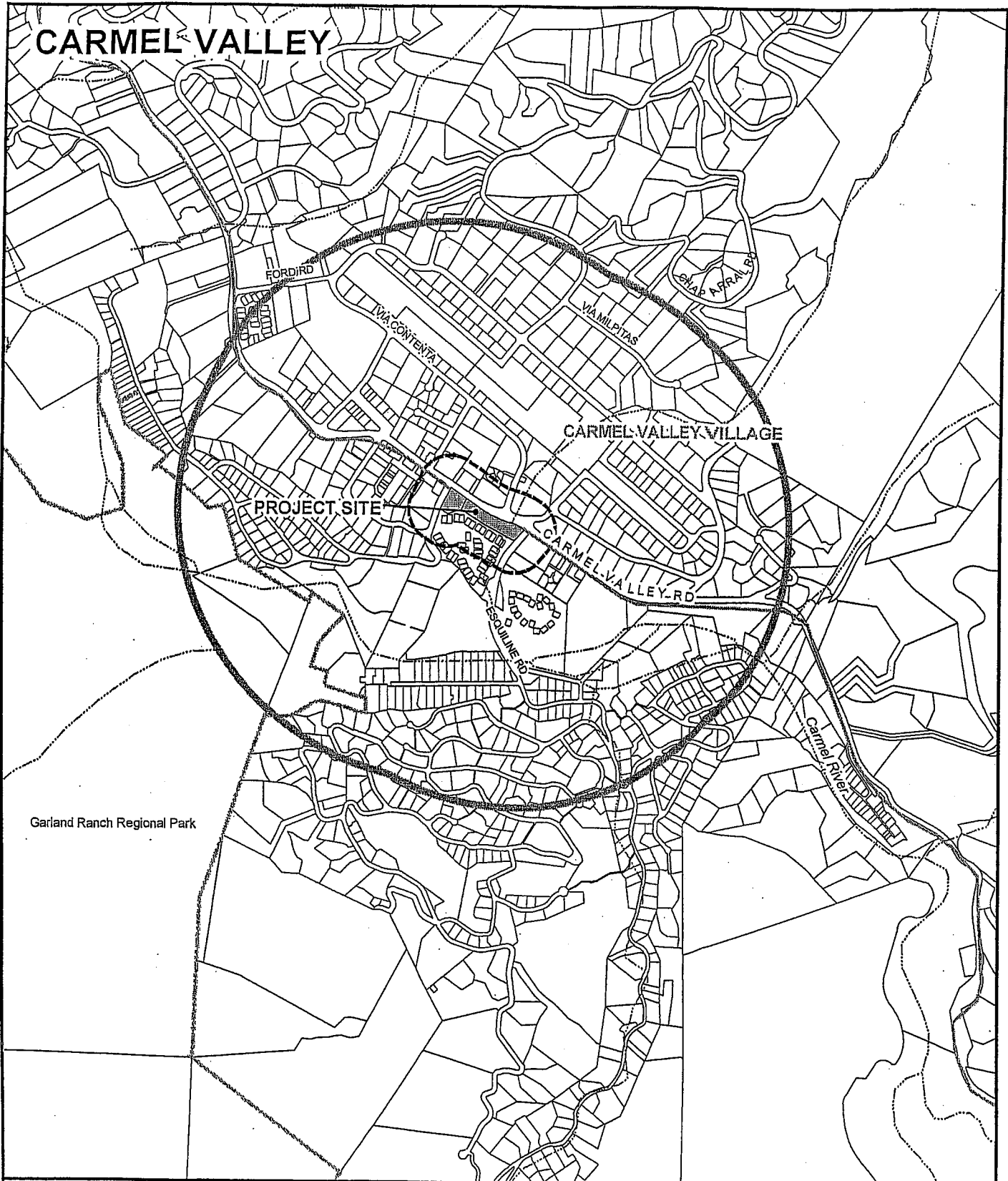
PROPERTY OWNERS: Monterey Fish Co., 1222 Marine St., Salinas, CA 95071, 831 725-1922.
OCCUPANCY GROUP: Office (0-1)
CONSTRUCTION TYPE: V4
SCOPE OF WORK: New 6' high concrete fence / sound wall.
OCCUPANCY LOAD: ps
COMMENTS: This project shall comply with the 2001 CBC, CMG, CPC, 2004 CEC, and the 2005 California Energy Code, and all other governing codes and ordinances. The California Building Standards Code is based on the 1997 UBC, 2000 LBC & IRC and the 2001 NEC.
DATE: 6/11/07
BY: Alex Ott
CHECKED BY: Alex Ott (11,433 SF)

Exhibit N



<p>WHITE OAKS PLAZA 13910 CARMEL VALLEY RD. APN: 189-291-008-000</p>	<p>KRISTOPHER S. KUSY BUILDER 1017 84307 10000 CANTON VALLEY CA 95024 Phone/Fax (911) 654-9754</p>
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
CARMEL VALLEY




APPLICANT: MONTEREY FISH COMPANY INC

APN: 189-291-005-000 & 189-291-006-000

FILE # PLN070254

 300' Limit

 2500' Limit

 City Limits

