

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

RESOLUTION NO. 03007

A.P.# 421-011-023-000

FINDINGS & DECISION

In the matter of the application of
Kurt Peter Mayer (PLN010331)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located north of Hot Springs Canyon and east of Highway 1/Esalen Institute, Big Sur Area, Coastal Zone, came on regularly for meeting before the Planning Commission on January 29, 2003.

WHEREAS: Said proposal includes:

- 1) A Coastal Development Permit for grading on slopes greater than 30%,
 - 2) A Coastal Development Permit for placement of graded material, culverts, rock revetments and water bars.
- These permits apply as appropriate to the after-the-fact improvement of an existing access road plus construction of a new trail extension totaling approximately 4,500 feet in length and resulting in balanced grading with 8,000 cubic yards of cut and 8,000 cubic yards of fill (county violation). Monterey County policies require that the new trail extension be restored to pre-violation conditions.

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

1. **FINDING – COMPLY WITH REGULATIONS:** The proposed Combined Development Permit requesting a Coastal Development Permit for grading on slopes greater than 30%, and a Coastal Development Permit for placement of graded material, culverts, rock revetments and water bars complies with all applicable requirements of Chapter 20.17 of Title 20 of Monterey County Codes. Restoration is infeasible due to circumstances beyond the control of the property owner and the alternative to restoration meets the goals and policies of the Big Sur Coast Land Use Plan consistent with Finding #2.

EVIDENCE: Materials in project file PLN010331.

EVIDENCE: Monterey County Code Section 20.90.130 requires restoration of land before an application is deemed complete. The Director of Planning and Building Inspection may require restoration of the property to its pre-violation state if it is found necessary to correct the violation. "Restoration" shall include, but not be limited to, the re-vegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of County Ordinances regulating grading, vegetation removal or tree removal. Alternatives to restoration shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or property owner.

EVIDENCE: These permits apply as appropriate to the after-the-fact construction (County violation) of an existing access plus a trail extension totaling approximately 4,500 feet in length and resulting in balanced grading with 8,000 cubic yards of cut and 8,000 cubic yards of fill. Recommended conditions require the applicant to restore the site to pre-violation conditions in compliance with all applicable requirements of the Big Sur Coastal Implementation Plan Chapter 20.145 of Title 20.

EVIDENCE: The project Archaeologist, Biologist, Forester, Geologist, and Engineer have reviewed the site in the after-the-fact condition. Findings and recommendations from the reports prepared by these professionals have been incorporated into the analysis and conditions for restoration and impact mitigation.

EVIDENCE: The Planning Commission determines that a unique condition applies to this project (PLN010331) if the property owner willingly offers to sell the subject property to a non-profit agency and all of the following conditions exist:

- a. The non-profit places the property into an open space easement prohibiting all future development,
- b. Mitigation measures recommended by the project biologist, geologist, and engineer have been implemented by the current property owner,
- c. The project engineer and biologist have determined that the project site conditions are stable
- d. None of the improvements are visible from any public area,
- e. The design of the trail does not significantly alter the natural drainage of the hillside, and
- f. The trail improvements did not and will not impact any sensitive habitat areas.
- g. The site holds significant conservation value because it is contiguous with other protected properties (e.g.; National Forest, Addelman properties open space/conservation easements).

2. **FINDING – CONSISTENT WITH PLAN/POLICIES:** The subject Combined Development Permit, as described in Finding #1 conforms to the plans, policies, 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: Placing the property into permanent open space meets a basic objective and policy of the Big Sur Coast Land Use Plan (BS CLUP) is for the County to take an strong and active role in protecting the area's natural resources with definite precedence over land use development (Policy 2.2.1 BS CLUP). Another basic objective met by this action is to minimize development of the Big Sur coast in order to preserve the coast as a scenic rural area (Policy 2.2.4 BS CLUP).

EVIDENCE: The trail extension (Segment 4) is not visible from Highway 1 or any major public viewing area (Policy 3.2.3.6 BS CLUP).

EVIDENCE: The Big Sur Land Trust has entered into an agreement to purchase the Mayer property with the intent to place the entire 105 acres into an open space easement. The Mayer property is located between properties protected under a scenic and open space easements held by the Big Sur Land Trust over the Addelman properties located to the west and north of the site. In addition, National Forest land is located east of the subject site. Policy 3.3.2.6 (BS CLUP) encourages retaining significant, and where possible continuous, areas of land in open space use.

In addition, Policy 5.4.3.M.4 (BS CLUP) encourages property owners to voluntarily take advantage of tax benefits that can result through working with non-profit conservation agencies.

EVIDENCE: The subject site is located within a “WSC/40-D(CZ)” or Watershed Scenic Conservation zoning district in the coastal zone.

EVIDENCE: The project proposed in this application (PLN010331-Mayer) consists of obtaining the necessary approvals for code violations relative to grading/improvements to a pre-existing access road and grading a trail without permits. The project size is approximately 125 acres in size and the zoning designation requires a minimum of 40 acres for parcels in this district.

EVIDENCE: The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) Big Sur Coast Land Use Plan.
- b) Chapter 20.145 of the Monterey County Coastal Implementation Plan.
- c) Chapter 20.17 of the Monterey County Zoning Ordinance relative to regulations for the Watershed Scenic Conservation “WSC/40-D(CZ)” district in the coastal zone.
- d) Chapter 20.44 of the Monterey County Zoning Ordinance relative to Design Approval.

With the recommended restoration actions (conditions), there would be no conflict or inconsistencies with the regulations of these plans or policies.

EVIDENCE: No testimony, either written or oral, was received during the course of the public hearing process to indicate that there is any inconsistency with these plans or policies.

EVIDENCE: The project is consistent with policies of the Big Sur Coastal Implementation Plan (BS CIP) dealing with visual resources and will have no significant impact on the public viewshed (Section 20.145.030 BS CIP). The proposed project was evaluated in terms of the impact upon the public viewshed from Highway 1. The project will not result in ridgeline development. In addition, the project would not intrude on the public viewshed as defined in Section 20.145.030.A.1 (BS CIP).

EVIDENCE: The project as proposed is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development in archaeologically sensitive areas (Section 20.145.120 BS CIP). An archaeological survey has been conducted on the project site by Archaeological Consulting on August 24, 1995. The report states that there are no identifiable archaeological resources located on site that were impacted by the unpermitted grading work. For restoration, a condition has been added to require that work be stopped in the event that any archaeological resources are found on site with the new grading activity.

EVIDENCE: The proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development adjacent to environmentally sensitive habitats (Section 20.145.040 BS CIP). The Biological and Forestry reports prepared for the site by Jeff Norman (Biologist) dated 12/12/2001, Hugh Smith with Urban Forestry (Forester) dated 8/15/1995) and Roy Webster with Webster & Associates (Forester) dated 8/3/2002) state that no significant negative impacts resulted from this development. The biology report recommends certain mitigation measures that apply to both violation and restoration activity. A condition has been added which requires the applicant to comply with the mitigation measures contained in the Biological Report.

EVIDENCE: The proposed project is consistent with policies of the Big Sur Coastal Implementation Plan dealing with development in hazardous areas (Section 20.145.080 BS CIP). The site is located in a hazardous geologic zone according to Resource Maps, of the Monterey County Big Sur Coast Land Use Plan. A geologic report has been prepared for the site by Gash & Associates dated May 2002 that is consistent with "Guidelines for Geologic/Seismic Reports" of the California Divisions of Mines and Geology. The report concludes that the project mitigated potential impacts through proper grading and drainage techniques.

EVIDENCE: On September 17, 2002, the South Coast Land Use Advisory Committee voted 3-0 to recommend approval of the project. The Committee generally found that the applicant had met all requirements.

3. **FINDING – SITE SUITABILITY:** The site is physically suitable for the proposed use.

EVIDENCE: The project planner conducted an on-site inspection on November 1, 2002. The proposed improvements will not present an unsightly appearance, impair the desirability of residences in the same area, limit the opportunity to obtain the optimum use and value of land improvements or impair the desirability of living conditions of the same or adjacent area.

EVIDENCE: The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Carmel Fire Protection Association, Big Sur Volunteer Fire Department, Parks Department, and Health Department. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated to the project conditions.

EVIDENCE: Reports by a certified Archaeologist, Biologist, Forester, Geologist, and Engineer indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the proposed use.

4. **FINDING – CONDITIONS OF APPROVAL:** The conditions of approval comply with the provisions of Title 20, Chapter 20.145.

EVIDENCE: The conditions are based on the recommendations of the local fire district, the Monterey County Water Resources Agency, Monterey County Health Department and Monterey County Department of Public Works. The conditions incorporate the concerns and recommendations of those various agencies. Additional conditions are required for approval in order to assure that the proposed use and site amenities are compatible with other developments in the area.

EVIDENCE: Condition #2 affords the property owner an option to willingly sell the property to a non-profit agency that would either place the entire property into permanent open space with no future development or perform the required restoration. If the property is placed in open space, restoration would not be required and Conditions 7-18 would not apply.

5. **FINDING - CEQA:** **CEQA** - Pursuant to Section 15300.2(c) of the CEQA guidelines, the proposed project cannot be categorically exempted because the project raises a reasonable possibility that a significant effect on the environment due to unusual circumstances. Therefore, an Initial Study has been prepared. It has been determined that the proposed project as mitigated, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File # PLN010331) at the Planning & Building Inspection Department. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant

effects on the environment have been incorporated into the approved project, or are conditions of approval. A Mitigation Monitoring and Reporting Program (hereafter “the Program”) has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning & Building Inspection Department, located at 2620 1st Avenue, Marina, California, 93933, is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

EVIDENCE: On December 6, 2002, County staff completed an Initial Study for the project (PLN010331) in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk December 6, 2002, noticed for public review, and circulated to the State Clearinghouse from December 9, 2002 to January 7, 2003 (SCH#: 2002121043). All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; 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. *Tree Report*. Hugh E. Smith, Urban Forestry Consulting, Dated August 7, 1995 with amendment dated August 15, 1995.
2. *Evaluation of Impacts on Forest Resources by Construction of Road Without Benefit of Permits Built to Access Monterey County APN 421-011-023*. Prepared by Roy Webster (RPF#1765), Webster & Associates. August 3, 2001.
3. *Biology Report*. Prepared by Jeff Norman, Consulting Biologist. December 12, 2001.
4. *Preliminary Cultural Resources Reconnaissance for a Portion of APN 421-011-023, South of Big Sur, Monterey, California*. Prepared by Anna Runnings, M.A. and Gary S. Breschini, SOPA (Project 2336). August 24, 1995.
5. *Geology Along the Road to the Mayer 108 Acre Parcel in the NE ¼ of the SE ¼ of Section 4, T21S, R3E, MDB&M, APN 421-011-023, Monterey County, California*. Prepared by Gasch & Associates (G&A Project # 2002-05.01). May, 2002.
6. *Site Development Evaluation*. Letter prepared by Harold E. Grice, PE, RCE 19424, RGE 359, Grice Engineering and Geology, Inc (File #3956-01.12). December 31, 2001.

7. *Road Accessibility.* Letter by Steve C. Wilson (PE #25,136), Monterey Bay Engineers, Inc. (File #95-54). April 12, 2002.
8. *Amended Road and Utility Easement.* Recorded Monterey County August 6, 2002 (Document #2002072819).
9. *Aerial Photographs.* USGS. 1994 (pre-project) and 1996 (post-project).
10. *Site Photographs.* Carl Holm, Project Planner. November 1, 2002.

The project will not have a significant adverse impact on the environment and a Mitigated Negative Declaration has been adopted by the Planning Commission. An initial study was prepared for the project and it was determined that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance.

EVIDENCE: The Planning Commission considered public testimony and the initial study at a hearing on January 8, 2003.

EVIDENCE: Mitigation Measures 5-12 were included in the Mitigated Negative Declaration to address impacts from restoration activities. If restoration is not required due to meeting the terms of Condition #2, then Mitigation Measures 5-12 would not apply to this project. Mitigation Measures 1-4 apply to work that has already been completed and these mitigation measures have been successfully implemented to reduce potential impacts of the non-restoration alternative to a level of insignificance.

6. **FINDING - FISH & GAME/NEGATIVE DECLARATION:** The design of the proposed improvements are not likely to cause substantial environmental damage or substantial or unavoidable injury to fish or wildlife or their habitat.

EVIDENCE: 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 regulations. The site supports suitable habitat for the Federally-listed endangered Smith's Blue butterfly. The road/trail project is located adjacent to Redwood Forest and crosses a perennial tributary of Hot Springs Creek, which has steelhead. The report presented by Jeff Norman, consulting biologist, identifies numerous sensitive species that may be encountered on this property. Although they were not encountered during the survey, they still could be encountered on the site as part of the required restoration activity. Therefore, this project is not subject to a de minimus exemption and the applicant is required to pay the Fish and Game fee.

EVIDENCE: Initial Study and Negative Declaration contained in File No. PLN010331.

EVIDENCE: A Mitigated Negative Declaration has been filed for this project and no comments were received. The applicant will be required as conditions of approval to follow practices of erosion control.

7. **FINDING –APPEAL:** The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Section 20.86.030 of the Monterey County Zoning Ordinance (Board of Supervisors).

EVIDENCE: Section 20.86.080 of the Monterey County Zoning Ordinance (Coastal Commission).

DECISION

It is the decision of the Planning Commission of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The Mayer Combined Development Permit (PLN010331) includes a Coastal Development Permit for grading on slopes greater than 30%, and a Coastal Development Permit for placement of graded material, culverts, rock revetments and water bars. These permits apply as appropriate to the after-the-fact construction of an existing access plus a trail extension totaling approximately 4,500 feet in length and resulting in balanced grading with 8,000 cubic yards of cut and 8,000 cubic yards of fill. Monterey County policies require that the new trail extension (Segment 4) be restored to a pre-violation condition. The project is in accordance with County ordinances and land use regulations, and 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 Planning and Building Inspection. 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. **(Planning and Building Inspection)**
2. The property owner shall take one of the following actions: a) within one year of the issuance of the Combined Development Permit (PLN010331), restore the new trail extension (Segment 4) to pre-grading conditions in accordance with Conditions 7 through 18 and Mitigation Measures 5 through 12; or b) within 120 days of the issuance of the Combined Development Permit (PLN010331), transfer the property to a public agency or tax-exempt organization organized under Internal Revenue Code section 501(c)(3) [the “subsequent owner”], which subsequent owner shall take one of the following actions: 1) record a conservation easement preserving the entire parcel in its natural, scenic, and open space condition, the form of said easement to be acceptable to the Director of Planning and Building Inspection; or 2) within one year of the issuance of the Combined Development Permit (PLN010331), restore the new trail extension (Segment 4) to pre-grading conditions in accordance with Conditions 7 through 18 and Mitigation Measures 5 through 12. If the parcel is placed in a conservation easement in accordance with this condition, then Conditions 7-18 and Mitigation Measures 5-12 will no longer apply. **(Planning and Building Inspection)**

Prior to Issuance of a Building and/or Grading Permit

3. 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 that 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. **(Planning and Building Inspection)**

4. The applicant shall record a notice which states: "A Permit (Resolution # 03007) was approved by the Monterey County Planning Commission for Assessor's Parcel Numbers 421-011-023-000 on January 8, 2003. The permit was granted subject to 19 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
5. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection)**
6. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan. The Plan shall be submitted to the Director of Planning and Building Inspection Department for approval prior to issuance of any building permits. **(Planning and Building Inspection)**
7. Prior to issuance of any grading permit, a road drainage and improvement plan for restoration of Segment 4 stamped by a registered civil engineer to the satisfaction of the Planning and Building Inspection Director and Water Resources Agency. Said plans shall address grading, erosion control and site drainage improvements (e.g. water bars, rip rap, etc.) for restoration of Segment 4 and removal of all ½ culverts utilizing "Best Management Practices" to prevent degradation of water quality in Hot Creek. **(Water Resources Agency & Planning and Building Inspection, Mitigation Measure 7)**
8. Prior to issuance of a grading permit, the applicant shall copy control measures onto the building plans for review and approval of the Planning and Building Inspection Department. The applicant shall also submit a program for how these measures will be implemented during construction activities:
 - a. Water all active construction areas at least twice daily. Frequency should be based on the type of operation, soil condition, and wind exposure.
 - b. Cover stockpiles of debris, soil, sand or other materials that may be blown by the wind.
 - c. Sweep adjacent streets of all mud and dust daily or as needed.
 - d. Landscape or cover completed portions of the site as soon as construction is complete in that area.
 - e. Grading activity shall not exceed 2.2 acres of excavation or 8.1 acres of grading per day.**(Planning and Building Inspection)**

9. Prior to issuance of a grading permit, the applicant shall provide a detail and note on the grading plans that illustrates and describes removal of the earth berm along the edge of the trail (Segment 4) in order to create a hydrological condition similar to what was existing prior to the grading activity to the satisfaction of the Director of Planning and Building Inspection. Excess soil shall be moved against the base of the cut and compacted to create a more natural drainage condition. **(Planning and Building Inspection, Mitigation Measure 9)**
10. Prior to issuance of a grading permit, the applicant shall provide the Director of Planning and Building Inspection Department written findings from a qualified biologist identifying findings of a survey conducted for the Hutchinson's larkspur during its flowering period. If this plant is found to be present and impacts to it have occurred, the applicant shall submit a mitigation plan by a certified biologist to the Director of Planning and Building Inspection including:
- Under the supervision of a qualified biologist, replanting if the Hutchinson's larkspur will occur in suitable habitat within 100 feet of areas where the population has been reduced as a result of the project.
 - A 3:1 replanting ratio will be implemented. Said plants will be grown from seed collected on-site and under the supervision of a qualified biologist, and propagated by a qualified native landscape specialist.
 - Outplanting will occur when the plants are one year old. Spacing will be on 3-foot centers. The plots will be fenced to exclude deer and small mammals, and individual plants will be provided with gopher screens. The plots will be kept weeded and watered until established.
 - This mitigation will be monitored each six months for five years by a qualified biologist. Monitoring results will be documented and transmitted by letter to the Monterey County Director of Planning and Building Inspection Department.
- (Planning and Building Inspection, Mitigation Measure 5)**
11. Prior to issuance of any permits, the following restrictions shall be included as a note on the construction plans:
- Construction activities shall be restricted between the hours of 8:00 a.m. and 5:00 p.m.
 - No work may occur on weekends or holidays, unless pre-approved for unique circumstances in writing by the Director of Planning and Building Inspection.
- Violation of these restrictions may result in a stop of work for up to 48 hours for each violation. **(Planning and Building Inspection)**
12. During grading and construction, the applicant and inspectors shall monitor the site for cultural materials in the soils. 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 150 feet of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection 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. **(Planning and Building Inspection, Mitigation Measure 6)**

Prior to Final Inspection and/or Occupancy

13. **Prior to final inspection**, the applicant shall provide the Director of Planning and Building Inspection Department written certification by a qualified biologist that the following measures have been performed in accordance with the biologist's recommendations.
- Invasive exotic plant species must be controlled and eradicated from locations of disturbed soil associated with this grading project and re-planted with native vegetation to the satisfaction of the Director of Planning and Building Inspection. These include cut banks, slopes below the road grade, culvert sites, and re-vegetated areas.
 - All disturbed slopes shall be netted and re-seeded with soil stabilizing vegetation using California brome (*Bromus carinatus*) and applied as recommended by the grower.
 - Silt fencing shall be installed along disturbed areas and remain in place until the soil along the road edge is stabilized.
 - Invasive exotic plant species shall be controlled and eradicated along the road alignment (and associated areas of disturbed soil) within the Redwood Forest plant community and re-planted with native vegetation to the satisfaction of the Director of Planning and Building Inspection. No excavated material or other debris shall be allowed to accumulate beneath the canopies of the redwoods.
 - Re-vegetation shall be provided on all exposed soil within Segment 4. The applicant shall re-seed these areas using California brome (*Bromus carinatus*) and applied as recommended by the grower.
- (Planning and Building Inspection, Mitigation Measures 1-4, and 8)**
14. Prior to occupancy, all landscaping shall be installed. **(Planning and Building Inspection)**
15. Prior to final inspection, the applicant shall contact the Planning and Building Inspection Department to arrange for the Project Planner to walk the trail to verify removal of all materials that are not natural to the environment that are on the applicant's property and/or owned by the applicant including; black/metal, corrugated tubing not used as part of the culvert in Culvert #1 (McElroy property); pvc pipe; lower height of black corrugated tubing at Culvert #1 to a point 12" above the earth berm around the culvert; tools; equipment; vehicles, along the entire length of the trail from Highway 1 to the top end to the satisfaction of the Director of Planning and Building Inspection. **(Planning and Building Inspection, Mitigation Measure 10)**
16. Prior to final grading approval, the applicant shall remove the water tank from the subject property to the satisfaction of the Director of Planning and Building Inspection. **(Planning and Building Inspection, Mitigation Measure 12)**

Continuous Permit Conditions:

17. Any future development proposing utilization of the access road for structural access shall be reviewed at that time for compliance with access requirements then in effect. **(Carmel Fire Protection Associates)**
18. Within one year from final action, the applicant shall complete all grading and mitigation associated with this project to the satisfaction of the Director of Planning and Building Inspection and consistent with the adopted mitigation monitoring program. Said actions include restoration of Segment 4 of the project area to a pre-violation condition as approved by the Planning Commission. **(Planning and Building Inspection, Mitigation Measure 11)**

- 19. If a conservation easement is placed over the site consistent with Condition #2, the following on-going conditions shall apply to ensure erosion control and successful re-vegetation:
 - a. A biologist shall review Segment 4 after two years and provide the Director of Planning and Building Inspection with a report of site conditions relative to invasive vegetation and soil stabilization issues related to the construction/design of Segment 4.
 - b. A Biologist shall review Segment 4 after five years and provide the Director of Planning and Building Inspection with a report of site conditions relative to invasive vegetation and soil stabilization issues related to the construction/design of Segment 4.
 - c. The biologist reports identified in subsections "a" and "b" above shall include recommended remediation of invasive vegetation and soil stabilization issues related to the construction of Segment 4 where/if necessary. Remediation shall not be required for catastrophic invasive vegetation and soil stabilization issues resulting from Acts of God such as fire, storms greater than the 100 year storm or floods greater than the 100 year flood. Said recommendations shall be implemented within 30 days of completing said report. If remediation is determined to be necessary, the biologist shall verify the completion and effectiveness of said remediation in a manner consistent with subsections "a" and "b" above.

(Planning and Building Inspection)

PASSED AND ADOPTED this 29th day of January, 2003.

Original Signed By:

LYNNE MOUNDAY, SECRETARY PRO TEM

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

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

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

- 1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

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