

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

RESOLUTION NO. 05038

APN# 418-021-056-000,
418-181-021-000, and 418-181-022-000

FINDINGS & DECISION

In the matter of the application of
MONTEREY BAY AREA COUNCIL (BOY SCOUTS)
(PLN050303)

Combined Development Permit including a Coastal Development Permit for construction of a steelhead habitat restoration/enhancement project including fish ladder, large woody debris placements, and spillway modifications for ongoing operation of existing flash board dam for summer scout camp use and ongoing operation of existing maintenance activities, Coastal Development Permit for development in riparian ESHA, Coastal Development Permit for the creation and regular maintenance of channel habitat feature in impound area above dam, including grading of 1,050 cubic yards of cut and 345 cubic yards of fill, and a Coastal Development Permit to allow the removal of one tan oak tree with two main trunks measuring 22 and 16 inches in diameter (dbh). The project is located at the eastern end of Palo Colorado Road. The project came on regularly for hearing before the Planning Commission on August 10, 2005.

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

FINDINGS OF FACT

1. **FINDING:** **CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, the Big Sur Coast Land Use Plan, the Little Sur Protected Waterway Management Plan, the Coastal Implementation Plan, Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for public recreational uses. Specifically, the proposed project is for restoration and enhancement of a recreational dam and surrounding area used for a youth summer camp which is consistent with Chapter 20.40.

EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Big Sur Coast Land Use Plan, the Little Sur Protected Waterway Management Plan, the Coastal Implementation Plan, and Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and have determined that the project is consistent with the Big Sur Coast Land Use Plan which designates this area as appropriate for public recreational uses. Staff notes are provided in Project File PLN050303.

(b) Project planner conducted an on-site inspection on May 26, 2005 to verify that the project on the subject parcel conforms to the plans listed above.

- (c) The project is for modifications to a recreational dam which is accessory to the property's use as a youth camp (public recreational use) an allowed use, in accordance with Section 20.40.050(A).
- (d) The parcel is zoned Public/Quasi-Public in a Design Control District, Coastal Zone ("PQP-D (CZ)"). The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.40.060.
- (e) The project has been determined consistent with Policies 3.4.4.B.3, 3.4.3.B.5, 3.4.3.C.1, 3.5.3.3, and 3.7.3.B.2 as the project, as designed would provide habitat improvements through the construction of a fishladder and other improvements, has been developed with the cooperation of NOAA Fisheries and DFG, and contains conditions to insure than all environmental impacts are reduced to an acceptable level.
- (f) The project has been determined consistent with the Primary Goal of the Little Sur Protected Waterway Management Plan, including its Primary Goal "to protect and enhance the outstanding natural values ... as prime fish and wildlife habitat..." and the relevant objectives of this plan. It is also consistent with Plan Objectives 6, 7, 8, and 9 because it continues the recreational resource of the dam while protecting the habitat of steelhead and other species.
- (g) The project has been determined consistent with the Coastal Implementation Plan, in particular Sections 20.145.040.B.1, 20.145.050.B.3, 20.145.050.B.2, and 20.145.060.D.3, 5, and 7 because mitigations will be required which protect the long-term maintenance of the riparian habitat, the project constitutes a prior approved water diversion, and tree removal is limited to the minimum required and is mitigated.
- (h) LAND USE ADVISORY COMMITTEE: The Big Sur Coast Use Advisory Committee discussed the item at their August 9, 2005 meeting. LUAC meeting minutes will be submitted directly to the Commission.
- (i) 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 PLN0050303.

2. FINDING: SITE SUITABILITY - The site is suitable for the use proposed.

- EVIDENCE:**
- (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, and the California Department of Forestry/Fire Protection. Conditions recommended have been incorporated.
 - (b) An archaeological report indicates that there are no cultural resources present on site which would indicate the site is not suitable for the use proposed. "Preliminary Archaeological Reconnaissance" prepared by Archaeological Consulting, Salinas, CA, (April 29, 2005). Report is in Project File PLN050303. Library Number 050303
 - (c) A "Preliminary Historical Assessment for the Little Sur River Dam" was prepared by Sheila McElroy, of Circa Historic Property Development" (June 30, 2005). This assessment concluded that the dam "does not meet

the criteria for National Register of Historic Places, California Register of Historic Places, or Monterey County Register. The dam is not considered an historic resource and therefore the addition ... will not have an adverse effect on the dam.” Report is in Project File PLN050303. Library Number 050530

- (d) A Geologic Hazards Screening Study was prepared by Nolan Associates on July 29, 2005. This report outlined “ground acceleration” standards for the design of the proposed improvements. The project engineer has written that he has reviewed these criteria and that the proposed design takes into consideration, and exceeds, the seismic criteria¹. Report is in Project File PLN050303. Library Number 050552. The project engineer, Rodney Cahill, RCE, also stated, in a personal conversation with staff on August 2, 2005, that design measures proposed will increase the structural integrity of the existing dam structure.
- (e) A limited geotechnical investigation was prepared for this site (Haro, Kasunich and Associates, Inc., July 2005). This report developed geotechnical design criteria for the proposed improvements which include retaining walls and general site grading. Consistency with the geotechnical report will be required as a Project Condition. Report is in Project File PLN050303. Library Number 050553
- (f) A Biological Assessment on the project was prepared jointly by Swanson Hydrology + Geomorphology and Dana Bland & Associates July 11, 2005.² The Biological Assessment outlines five potential adverse impacts which may result from this project. A series of “mitigations” are listed in this document which would lessen the impacts of these impacts to an acceptable level. Inclusion of these requirements, and those of a subsequent list of BMP’s (“Best Management Practices”), into the Lake and Streambed Alteration Agreement between the Boy Scouts and DFG is required as a condition of project approval. Report is in Project File PLN050303. Library Number 050529
- (g) Project planner conducted an on-site inspection on May 26, 2005 to verify that the site is suitable for this use.
- (h) Necessary public facilities are available and will be provided.

3. **FINDING: TREE REMOVAL** – The subject project minimizes tree removal in accordance with the applicable goals and policies of the Big Sur Coast Land Use Plan and Coastal Implementation Plan.

EVIDENCE: (a) Section 20.145.060.D.3 of the Monterey County Coastal Implementation Plan, Part 3, states that “removal of native trees shall be limited to that which is necessary for the proposed development.” The project proposes to one (1) tan oak with two main branches measuring 22” and 16” in diameter (dbh). This tree is directly in the proposed footprint of the fish ladder and there is no alternative site for the fish ladder. A condition of approval requires that this tree be replaced by three (3) tan oaks to be planted within the riparian corridor.

¹ Letter from Rodney Cahill, RCE, Swanson Hydrology + Geomorphology, to Thom McCue, dated August 1, 2005.

² This document has been erroneously dated March 11, 2005.

- (b) Section 20.145.060.D.5 of the Monterey County Coastal Implementation Plan, Part 3, states that “tree removal shall not be permitted within the riparian corridor. Trees located beyond the riparian corridor shall not be felled into the riparian corridor.” The tree proposed for removal is required for the project which is designed to improve the riparian habitat. The tree is located above the bankfull corridor. A condition of approval will require that the tree not be felled into the corridor.

FINDING: **ESHA:** The proposed project conforms to the Development Standards for Environmentally Sensitive Habitats of the Coastal Implementation Plan.

EVIDENCE: The biological assessment prepared for the project identified potential adverse impacts to species of special concern and environmentally sensitive habitat. Potential adverse impacts were identified for Steelhead (Federally threatened), California red-legged frog (Federally threatened, California Species of Concern), Southwestern Pond Turtle (California Species of Concern), Foothill Yellow-legged frog (California Species of Concern), Coast range newt (California Species of Concern) and the Riparian Environmentally Sensitive Habitat Area (ESHA). Appropriate mitigation measures were outlined and these requirements will be made project conditions of the Streambed Alteration Agreement between the applicant and DFG pursuant to a recommended condition of the County Combined Development Permit. With these conditions there will be no significant impacts.

EVIDENCE: (a) Biological Assessment,
(b) Materials in File,
(b) Project planner conducted an on-site inspection on May 26, 2005.

5. FINDING: **CEQA (Exempt):** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15261(b) statutorily exempts private projects if the project received approval of a lease, license, certificate, permit or other entitlement for use from a public agency prior to April 5, 1973. The recreational dam at Pico Blanco received approval of a Water Rights License from the State Water Resources Control Board on July 15, 1958.
(b) DFG filed a Notice of Exemption for the recreational dam with the State Office of Planning and Budget on June 14, 2005.

FINDING: **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations existing on subject property.

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 access.
 - (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.
 - (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - (d) Staff site visit on July 7, 2004 and September 13, 2004.

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) Preceding findings and supporting evidence.

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

EVIDENCE:

- (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan.
- (b) Section 20.86.080.A.1 of the Monterey County Coastal Implementation Plan.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 10th day of August, 2005 by the following vote:

AYES: Errea, Parsons, Hawkins, Padilla, Vandever, Sanchez, Salazar, Rochester
NOES: None
ABSTAIN: None
ABSENT: Diehl, Wilmot

DALE ELLIS, SECRETARY

Copy of this decision mailed to the applicant on

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. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.

**Monterey County Planning and Building Inspection
Conditions of Approval**

Project Name: Monterey Bay Area Council (Boy Scouts)

File No: PLN050303

APNs: 418-021-056-000, 418-181-021-000, & 418-181-022-000

Approval by: Monterey County Planning Commission **Date:** August 10, 2005

**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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<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>PBD029 - SPECIFIC USES ONLY</p> <p>This combined permit (PLN050303) allows for construction of a steelhead habitat restoration/enhancement project including fish ladder, large woody debris placements, and spillway modifications for ongoing operation of existing flash board dam for summer scout camp use and ongoing operation of existing maintenance activities, development in riparian ESHA, creation and regular maintenance of channel habitat feature in impound area above dam, including grading of 1050 cubic yards of cut and 345 cubic yards of fill, and a Coastal Development Permit to allow the removal of one tan oak tree with two main trunks measuring 22 and 16 inches in diameter (dbh). The property is located at the eastern end of Palo Colorado Road (Assessor's Parcel Numbers 418-021-056-000, 418-181-021-000, & 418-181-022-000), 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 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)</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>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution PLN050303) was approved by the Monterey County Zoning Administrator for Assessor's Parcel Numbers 418-021-056-000, 418-181-021-000, & 418-181-022-000 on August 10, 2005. The permit was granted subject to eleven (11) 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)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits.	
3		<p>BUILDING & GRADING PERMITS REQUIRED (Non Standard Condition)</p> <p>Grading permits are required for the initial construction of the project and for future maintenance grading. (Planning and Building Inspection)</p>	Apply and receive the appropriate grading permits from Monterey County Planning and Building Inspection.	Engineer/ Owner/ Applicant	Prior to Construction of Project and initiation of maintenance grading of riverbed	

<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>
4		<p>PBD030 - STOP WORK - RESOURCES FOUND</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 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)</p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection 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.</p>	<p>Owner/ Applicant/ Archaeologist</p>	<p>Ongoing</p>	
5		<p>GEOTECHNICAL CERTIFICATION (Non Standard Condition)</p> <p>Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (Planning and Building Inspection)</p>	<p>Submit certification by the geotechnical consultant to PBI showing project's compliance with the geotechnical report.</p>	<p>Owner/ Applicant/ Geotechnical Consultant</p>	<p>Prior to Final Building Inspection</p>	

<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>
6		<p>WR39 - OTHER AGENCY PERMITS</p> <p>The applicant shall provide certification to the Water Resources Agency that applications have been submitted for all required local, State, and Federal permits. The Agencies include but are not limited to the California Department of Fish & Game, California Regional Water Quality Control Board, Division of Safety of Dams, and the Army Corps of Engineers. (Water Resources Agency)</p>	Submit a letter and any associated permits to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any grading or building permits	
7		<p>STREAM ALTERATION AGREEMENT (Non Standard Condition)</p> <ul style="list-style-type: none"> o The applicant shall enter into and implement a binding Section 1602 lake and streambed alteration agreement with the California 	A copy of this signed agreement shall be presented to the County Planning & Building Inspection Department.	Owner/ Applicant	Prior to 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>
		<p>Department of Fish & Game (DFG) which incorporates the mitigations listed on pages 24 through 28 of the “Camp Pico Blanco Steelhead Passage Improvement And Habitat Enhancement Project Biological Assessment” prepared by Swanson Hydrology + Geomorphology with Dana Bland & Associates, dated July 11, 2005 (incorrectly printed as March 11, 2005) and the “Camp Pico Blanco Fish Passage and Habitat Improvement Project Post Construction Best Management Practices (BMP’s)” prepared by Swanson Hydrology + Geomorphology (undated). These mitigations include, but are not limited to, the requirements that the applicant:</p> <ul style="list-style-type: none"> ○ Obtain all necessary permits from the U.S. Army Corps of Engineers, the California Department of Fish and Game and the Regional Water Quality Control Board, ○ Implement BMP’s to protect water quality, ○ Minimize potential loss of steelhead during construction activities, ○ Meet DFG protocols for dam operation, ○ Conduct preconstruction surveys for California red-legged frog, Southwestern Pond Turtle, Foothill Yellow-legged frog, and Coast range newt, and take protective measures as needed, and ○ Replace the one tree planned for removed by planting three trees of the same species (tan oak). 	<p>Verification of compliance with this agreement shall be provided to the County Planning & Building Inspection Department.</p>	<p>Owner/ Applicant</p>	<p>One year following issuance of building and grading permit for initial construction and prior to issuance of grading permits for ongoing dam maintenance</p>	

<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>
8		TREE RESTORATION (Non Standard Condition) Replacement of the tan oak shall be accomplished by planting three trees (California Bay, and/or White Alder) on the slope above the retaining wall. (Planning and Building Inspection)	Submit evidence from a forester, arborist, or biologist that the trees have been properly planted and that a maintenance plan is in place to insure their survival.	Owner/ Applicant/ Forester or Biologist	Prior to final building inspection	
9		TREE REMOVAL (Non Standard Condition) The tree shall not be felled into the river but away from it, or alternately may be felled into the river channel once the channel has been dewatered. (Planning and Building Inspection)	Submit photographs of the tree's removal showing that it was not felled into the river.	Owner/ Applicant	Prior to final building inspection	
10		PBD032(A) - TREE PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to issuance of grading and building permits	
11		PBD014 - GRADING-WINTER RESTRICTION No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. (Planning and Building Inspection)	None	Owner/ Applicant	Ongoing	