

Attachment E  
Planning Commission Resolution No.  
12-039 adopting a Mitigated Negative  
Declaration and Mitigation Monitoring and  
Reporting Plan for the projects under File  
Nos. PLN100501, PLN100502, PLN100515  
and PLN100516

**Before the Planning Commission in and for the  
County of Monterey, State of California**

In the matter of the application of:

**COUNTY OF MONTEREY (PLN100502, PLN100515, PLN100516 and PLN100501)  
RESOLUTION NO. 12-039**

Resolution by the Monterey County Planning Commission Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the projects under File Nos. PLN100502, PLN100515, PLN100516 and PLN100501. The projects were considered and approved by the Planning Commission on September 26, 2012 (Resolution Nos. 12-040, 12-041, 12-042 and 12-043 respectively) subject to the mitigation measures identified in the Initial Study and Mitigated Negative Declaration.

[PLN100502, PLN100515, PLN100516 and PLN100501]

**The Next Generation Emergency Network (NGEN) application (PLN100502, PLN100515, PLN100516 and PLN100501) came on for public hearing before the Monterey County Planning Commission on September 26, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

- 1     **FINDING:**           **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project under File Nos. PLN100501, PLN100502, PLN100515 and PLN100516 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) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
- b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA for the projects under File Nos. PLN100502, PLN100515, PLN100516 and PLN100501. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference. The Initial Study provides substantial evidence based upon the record as a whole, that the project under File Nos. PLN100502, PLN100515, PLN100516 and PLN100501 would not have a significant effect on the environment.
- c) A Draft Mitigated Negative Declaration (MND) for the projects under File Nos. PLN100502, PLN100515, PLN100516 and PLN100501 was

prepared in accordance with CEQA and circulated for public review from August 21, 2012 through September 21, 2012 (SCH#: 2012081052). The MND reflects the independent judgment and analysis of the County.

- d) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utility/service systems.
- e) Potential significant impacts were identified for the projects proposed at Site No. 2 (Laguna Seca) and Site No. 3 (Pinion Peak). Appropriate mitigation measures have been identified to reduce those impacts to less than significant level. A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- f) Mitigation Measure No. 1: Site No. 2 – Laguna Seca (PLN100502): Biological Resources: According to the Department of Fish and Game Natural Communities database and California Natural Diversity Database (CNDDDB), the project site is located approximately 2,000 feet away from known Maritime Chaparral habitat and 1,500 feet from identified areas north of the project site, within Laguna Seca, that have documented occurrences of California tiger salamanders. Maritime Chaparral and the California tiger salamander are both federally listed as threatened and the California Tiger Salamander is listed as threatened by the California Department of Fish and Game. Based on the location and lack of suitable habitat on the existing, already developed site, the project would not adversely affect environmentally sensitive Maritime Chaparral habitat. No riparian corridors or conservation areas are located on or near the project site. Mitigation Measure No. 1 in the MND has been identified requiring preconstruction surveys for California Tiger Salamanders in accordance with USFW and CDFG protocols prior to the start of construction. These surveys shall be done by a qualified biologist and would assure protection of the species and reduce potential impacts to less than significant impacts.
- g) Mitigation Measure No. 2: Site No. 3 – Pinion Peak (PLN100515): Biological Resources: To avoid and minimize impacts at the site, the existing buckwheat plant population inside the loop road shall be protected by fencing before construction commences and during the entire construction process. Permanent signage at the site shall inform people present of the presence of sensitive habitat. Construction and operational employees shall be trained in identification of the buckwheat plants to then avoid contact with plants during construction

and operation of tower. A defined pathway between monopole and fire tower shall be established for maintenance purposes, and kept free of vegetation to prevent future growth of buckwheat plants and potential habitat. Pathway maintenance shall be on-going to ensure no vegetation growth within pathway area. Construction staging areas shall be clearly demarcated and fenced in during construction.

Once buckwheat fencing is installed, a construction team member shall be assigned to ensure fencing stays in place throughout the construction period. Once tower is operational, staff should ensure signage is present and on-going training shall keep staff aware of sensitive habitat presence.

- h) Mitigation Measure No. 3: Site No. 3 – Pinion Peak (PLN100515): Biological Resources: Preconstruction surveys for California Tiger Salamanders and California Red-Legged Frogs shall be conducted in accordance with USFW and CDFG protocols prior to the start of construction. These surveys shall be done by a qualified biologist. Under direction of the biologist, measures such as a worker awareness program, exclusionary fencing, and daily monitoring of construction areas shall be employed in order to prevent “take” of these species during construction. If any species are encountered during the surveys, species relocation shall occur per USFW and CDFG protocols. Prior to issuance of any building permits, a copy of a contract with a qualified biologist (to conduct surveys) which includes a scope of work showing how the above measures shall be employed during construction shall be submitted for approval.
- i) Evidence that has been received and considered includes: the application, technical studies/reports (*see Finding 2/Site Suitability*), staff reports that reflect the County’s independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department and are hereby incorporated herein by reference.
- j) Staff analysis contained in the Initial Study and the record as a whole indicate the project would not result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.
- k) The County has considered the comments received during the public review period, and they do not alter the conclusions in the Initial Study and Mitigated Negative Declaration
- l) The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

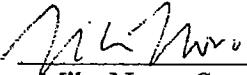
**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the projects under File Nos. PLN100502, PLN100515, PLN100516 and PLN100501 subject to the mitigation measures identified in the Initial Study and Mitigated Negative Declaration.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of September, 2012 upon motion of Commissioner Vandever, seconded by Commissioner Hert, by the following vote:

AYES: Brown, Vandever, Getzelman, Roberts, Diehl, Padilla, Hert  
NOES: None  
ABSENT: Salazar, Mendez, Rochester  
ABSTAIN: None

  
Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **SEP 28 2012**

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 ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **OCT 08 2012**

This decision, if it 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.