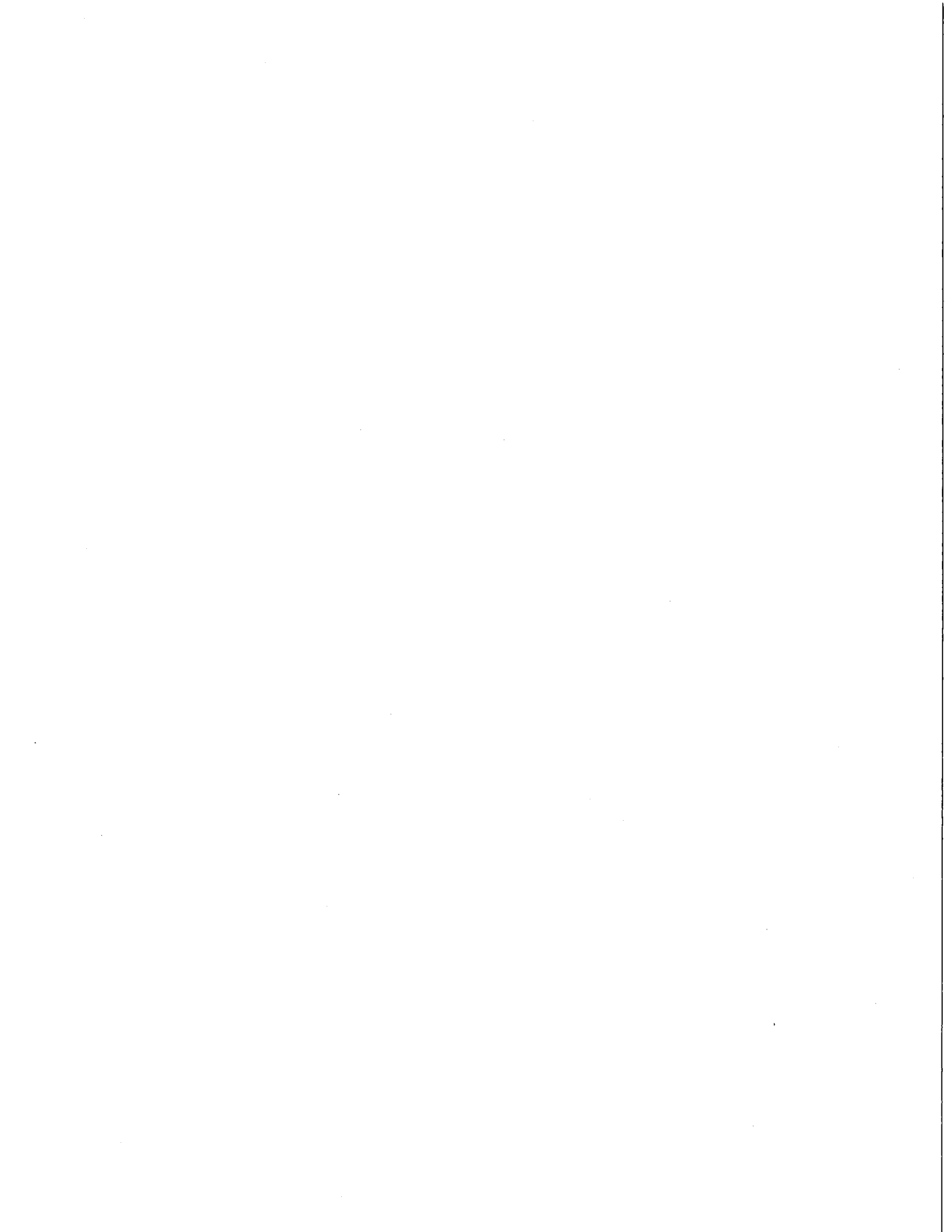


Attachment D
Planning Commission
Resolution No. 13-041

PLN120442



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

In the matter of the application of:

SIMA BARNYARD, LLC. (PLN120442)

RESOLUTION NO. 13-041

Resolution by the Monterey County Planning
Commission:

- 1) Finding the project exempt from environmental review per Section 15303 of the CEQA Guidelines; and
- 2) Approving in part and denying in part a Combined Development Permit as follows: a) Approve a General Development Plan to allow the addition of an approximately 2.6-acre portion of property owned by the California State Department of Parks (Portion of Assessor's Parcel Number 015-011-005-000) to the 3.5-acre site of the Barnyard Shopping Center (Assessor's Parcel Number 015-012-061-000); b) Deny a Variance to allow signage for the Barnyard Shopping Center to further exceed the maximum of 35 square feet of signage allowed under the Sign Regulations (Chapter 21.60) of the Zoning Ordinance; and
- 3) Deny a Design Review Application for a new Signage Plan for the Barnyard Shopping Center including the 35 square feet of signage approved under File No. PLN040237, the approved 30 square foot sign located on Building A of the Shopping Center and the proposed 32 square foot monument sign along Highway One.

[PLN120442, Sima Barnyard, LLC., Southeastern corner of the Carmel Valley Road/Highway One intersection, Greater Monterey Peninsula Area Plan/Carmel Valley Master Plan (APN: Portion of 015-011-005-000 & 015-012-061-000)]

The Sima Barnyard, LLC application (PLN120442) came on for public hearing before the Monterey County Planning Commission on November 13, 2013. 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:** **PROJECT DESCRIPTION** – The proposed project includes:
 - 1) General Development Plan to allow the addition of an approximately 2.6-acre portion of property owned by the California State Department of Parks (Portion of Assessor's Parcel Number 015-011-005-000) to the 3.5-acre site of the Barnyard

- Shopping Center (Assessor's Parcel Number 015-012-061-000);
- 2) Variance to allow signage for the Barnyard Shopping Center to further exceed the maximum of 35 square feet allowed by the Zoning Ordinance; and
- 3) Design Approval for a new Signage Plan for the Barnyard Shopping Center including the construction of a 35 square foot monument sign fronting on State Highway One along a designated Scenic Highway Corridor.

EVIDENCE: 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 PLN120442.

2. **FINDING:** **CONSISTENCY (1)** – The project as proposed is partially inconsistent with the policies of the General Plan and the Area Plan which designate this area for public/quasi-public uses; and with the standards of the Zoning Ordinance for the Zoning District and the Sign Regulations.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Monterey Peninsula Area Plan
- Carmel Valley Master Plan;
- Monterey County Zoning Ordinance (Title 21);

The project was found to be inconsistent with several policies of the Area Plan and the Sign Regulations (Chapter 21.60) of the Zoning Ordinance.

- b) The site of the proposed sign (The State Property) is located generally at the southeastern corner of the Carmel Valley Road/Highway One intersection (Portion of Assessor's Parcel Numbers 015-011-005-000), Greater Monterey Peninsula Area Plan and Carmel Valley Master Plan. The site is zoned "PQP-S-D" (APN 015-011-005-000); the purpose of the Regulations for the Public/Quasi Public Zoning District is to allow "public/quasi public uses such as schools, parks, regional parks, recreation areas, and uses which serve the public at large." The proposed sign would be related to an existing commercial use not consistent with the purpose of those regulations.
- c) Even though the site of the proposed monument sign would be technically added to the site of the Barnyard Shopping Center, the location of the sign would result in visual clutter and intrusion within the designated scenic route and visually sensitive area.
- d) The construction of the proposed monument sign would not be consistent with Policy GMP-3.3 (a) of the Greater Monterey Peninsula Area which requires that areas within visually sensitive areas be protected. The designated visually sensitive area alongside the designated scenic route, where the proposed sign would be located, was designated to provide a buffer between the scenic route and the commercial development east of the route. The location of the sign in this area would be inconsistent with the intent of protecting visually sensitive area.
- e) The construction of the proposed monument sign would not be consistent with Policy GMP-3.3 (e) of the Greater Monterey Peninsula

Area which requires that development within a designated visually sensitive area that would be visible from a designated scenic route shall maintain the visual character of the area. The proposed 32 square foot sign would be visible in both directions (north and south) from Highway One and would represent an artificial intrusion into the scenic corridor inconsistent with the visual character of the corridor, which currently lacks signs, and inconsistent with the spirit of the provisions of the General Plan and Area Plan policies designed to protect the visual character of the County.

- f) The construction of the proposed monument sign would not be consistent with Policy GMP-3.3 (e) (2) of the Greater Monterey Peninsula Area Plan which requires new development within a designated scenic route to maintain no less than a 100-foot setback from the scenic route right-of-way. The proposed sign would be located with a 25-foot setback from the right-of-way and therefore would be inconsistent with the Policy.
- g) The project planner conducted several site inspections to verify that the project on the subject parcel would not conform to the policies listed above.
- h) The project was referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC to request the LUAC's recommendation on:
 - 1) The appropriateness of the addition of the 2.6-acre portion of the State Parks property to the Barnyard Shopping Center site and the construction of a monument sign for the Shopping Center within that area;
 - 2) Whether the Committee would consider that there are any circumstances to justify the request for added square footage for the Shopping Center signage; and
 - 3) The appropriateness of developing a 35-square foot monument sign along a designated "Scenic Highway."

The LUAC considered the application on December 3, 2012. The LUAC recommended denial of the application because "the project represents a significant expansion of the use of the property, the project sets a bad precedent for signage on Highway 1, the sign is too visible, the permit legalizes what is in fact an off-site sign."

- i) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA - Planning for the proposed development found in Project File PLN120442.

3. **FINDING:** **CONSISTENCY (2) - GENERAL DEVELOPMENT PLAN** – The proposed addition of the 2.6-acre portion of the State Property to the Site Plan of the approved Zoning Permit for the Barnyard Shopping Center is consistent with the pertinent provisions of the Zoning Ordinance.

EVIDENCE: Under the definition of "One Ownership" stated in Section 21.06.830 of the Zoning Ordinance, "One ownership means ownership of property or possession thereof under a contract to purchase or under a lease, the term of which is not less than 10 years, by a person or persons, firm,

corporation, or partnership, individually, jointly, in common, or in any other manner whereby such property is under single or unified control.” Based on this definition, from a technical standpoint, both the Barnyard Parcel and the State Property already are under one ownership because the applicant has a lease for the State Property the term of which is no less than ten years. The addition of the State Property to the Site Plan of the approved Zoning Permit would merely amend the boundary of the site of the Barnyard Property without adding or approving any commercial use within the added area nor approving the proposed 32 square foot sign. The General Development Plan includes allowing a parking area and trash enclosure on the State Property.

4. **FINDING:** **SITE SUITABILITY** – The site is not physically suitable for the use proposed.
- EVIDENCE:** a) See Evidence under Finding No. 2 above.
b) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA - Planning for the proposed development found in Project File PLN120442.
5. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will 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) The project was reviewed by RMA - Planning, Cypress Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency.
b) Staff conducted several site inspections to verify that the site is not suitable for the construction of the proposed monument sign.
c) See evidence for Findings 2 and 3, above.
d) 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 PLN120442.
6. **FINDING:** **ZONING CODE VIOLATIONS** - The subject site is not in compliance with all rules and regulations pertaining to the Sign Regulations of the Zoning Ordinance and to the standards of the Zoning District. The Barnyard Shopping Center parcel is not in compliance with the provisions of the Zoning Permit for the Shopping Center (File No. ZA-2035-D). Violations exist on the property. Approval and implementation of this permit, including the conditions of approval, would eliminate the violation.
- EVIDENCE:** a) Compliance Order and Notice of Intent to Record Notice of Violation (Code enforcement Case Number 11CE00342).
b) Site inspections conducted by staff from Code Enforcement and RMA-Planning.
c) If approved, the proposed project would correct the existing violation

regarding the construction of a monument sign for the Barnyard Shopping Center without the required Planning permits (11CE00342). If approved, the project would bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations.

- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120442.

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

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts the construction of small structures such as the proposed monument sign. Guidelines Section 15061 (b) (4) exempts projects that will be rejected or disapproved by a public agency.
 - b) The construction of the proposed sign has been denied by the Planning Commission.
 - c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Even though the proposed sign would be located within a designated Scenic Highway, the sign has been denied by the Planning Commission.
 - d) Based on the definition of "One Ownership" in Section 21.06.080 of the Zoning Ordinance, the Shopping Center Parcel and the portion of the State Property already are under one ownership because the applicant has a lease for the State Property the term of which is no less than ten years. The approval of the General Development Plan for the addition of the 2.6-acre portion of the State Property merely amends the boundary of the Barnyard Shopping Center parcel without adding or approving any new commercial uses within the added area.
 - e) 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 PLN120442.

8. **FINDING:** **VARIANCE (1)** – There are no special circumstances applicable to the subject property that would make the strict application of the regulations of Title 21 to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

EVIDENCE: The additional signage for the Shopping Center is proposed by the applicant to allow the addition of 32 square feet of signage to the existing 69 square feet. The new signage would result in a total of 101 square feet of signage where 35 square feet are allowed under the current sign regulations (Chapter 21.60 of the Zoning Ordinance).

9. **FINDING:** **VARIANCE (2)** – The granting of the variance would constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

EVIDENCE: a) The new sign would be located fronting on Highway One alongside a designated Scenic Highway and within a designated visually sensitive area. The location of the proposed sign would not be consistent with the

provisions of Policy GMP-3.3 of the Greater Monterey Peninsula Area Plan for the protection of areas in designated visually sensitive areas. The sign would be visible in both directions (north and south) from Highway One adding visual clutter to an area that currently does not contain approved signage. The location of the proposed sign within a designated visually sensitive area would be inconsistent with the intent of the protection of the visually sensitive area, would represent an artificial intrusion into the scenic corridor inconsistent with the visual character of the corridor and would detract from the visual character of the area. No other signs are located within the area, and within this PQP-D-S zoning district; therefore, the construction of the sign would constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. See evidence for Findings 2 and 3, above.

10. **FINDING:** **VARIANCE (3)** – The granting of the variance would authorize a use or activity not expressly authorized by the zoning regulations governing the subject parcel.
- EVIDENCE:** The location of the 32 square foot sign that would be allowed under the proposed variance would be a part of an established commercial use. The sign would be located on property zoned as “PQP-D-S” (Public/Quasi-Public) and, as a part of a commercial use, would be contrary to the purpose of the Regulations for Public/Quasi Public Zoning Districts which is to allow “public/quasi public uses such as schools, parks, regional parks, recreation areas, and uses which serve the public at large.” Therefore, the construction of the proposed sign would not be expressly authorized by the zoning regulations governing the subject site.
11. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** Section 21.80.040 D of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

DECISION

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

1. Find the project exempt from environmental review under Section 15303 of the CEQA Guidelines;
2. Approve the General Development Plan to add the 2.6-acre portion of the State Property to the site plan of the Barnyard Shopping Center;
3. Deny the Variance to allow signage for the Barnyard Shopping Center to further exceed the maximum of 35 square feet allowed by the Zoning Ordinance; and
4. Deny the Design Review Application for a new signage plan for the Barnyard Shopping Center to include a proposed 32 square foot monument sign, subject to the attached Findings and Evidence and drawings attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 13th day of November, 2013 upon motion of Commissioner Diehl, seconded by Commissioner Rochester, by the following vote:

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



Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 25 2013

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 TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE DEC 05 2013

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 Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County Planning Department
Condition of Approval Implementation Plan/Mitigation
Monitoring Reporting Plan

PLN120442

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: This Combined Development Permit was considered by the Planning Commission on November 13, 2013. The Commission partially approved and partially denied the Permit as follows: a) Approved a General Development Plan to allow the addition of an approximately 2.6-acre portion of property owned by the California State Department of Parks (Portion of Assessor's Parcel Number 015-011-005-000) to the 3.5-acre site of the Barnyard Shopping Center (Assessor's Parcel Number 015-012-061-000); b) Denied a Variance to allow signage for the Barnyard Shopping Center to further exceed the maximum of 35 square feet of signage allowed under the Sign Regulations (Chapter 21.60) of the Zoning Ordinance; and 3) Denied a Design Review Application for a new Signage Plan for the Barnyard Shopping Center including the 35 square feet of signage approved under File No. PLN040237, the approved 30 square foot sign located on Building A of the Shopping Center and the proposed 32 square foot monument sign along Highway One.

The action of the Commission is in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning Department

Condition/Mitigation The applicant shall record a Permit Approval Notice. This notice shall state:

Monitoring Measure:

"A Combined Development Permit (Resolution Number 13-041) was considered by the Planning Commission for a portion of APN 015-011-005-000 & for APN 015-012-061-000) on November 13, 2013. The Planning Commission partially approved and partially denied the Permit as follows: 1) Approved a General Development Plan to allow the addition of an approximately 2.6-acre portion of property owned by the California State Department of Parks (Portion of Assessor's Parcel Number 015-011-005-000) to the 3.5-acre site of the Barnyard Shopping Center (Assessor's Parcel Number 015-012-061-000); 2) Denied a Variance to allow signage for the Barnyard Shopping Center to further exceed the maximum of 35 square feet of signage allowed under the Sign Regulations (Chapter 21.60) of the Zoning Ordinance; and 3) Denied a Design Review Application for a new Signage Plan for the Barnyard Shopping Center including the 35 square feet of signage approved under File No. PLN040237, the approved 30 square foot sign located on Building A of the Shopping Center and the proposed 32 square foot monument sign along Highway One.

The permit was partially approved and partially denied subject to 4 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."

Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)

Compliance or
Monitoring
Action to be Performed:

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: Planning Department

Condition/Mitigation
Monitoring Measure:

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The 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 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)

Compliance or
Monitoring
Action to be Performed:

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

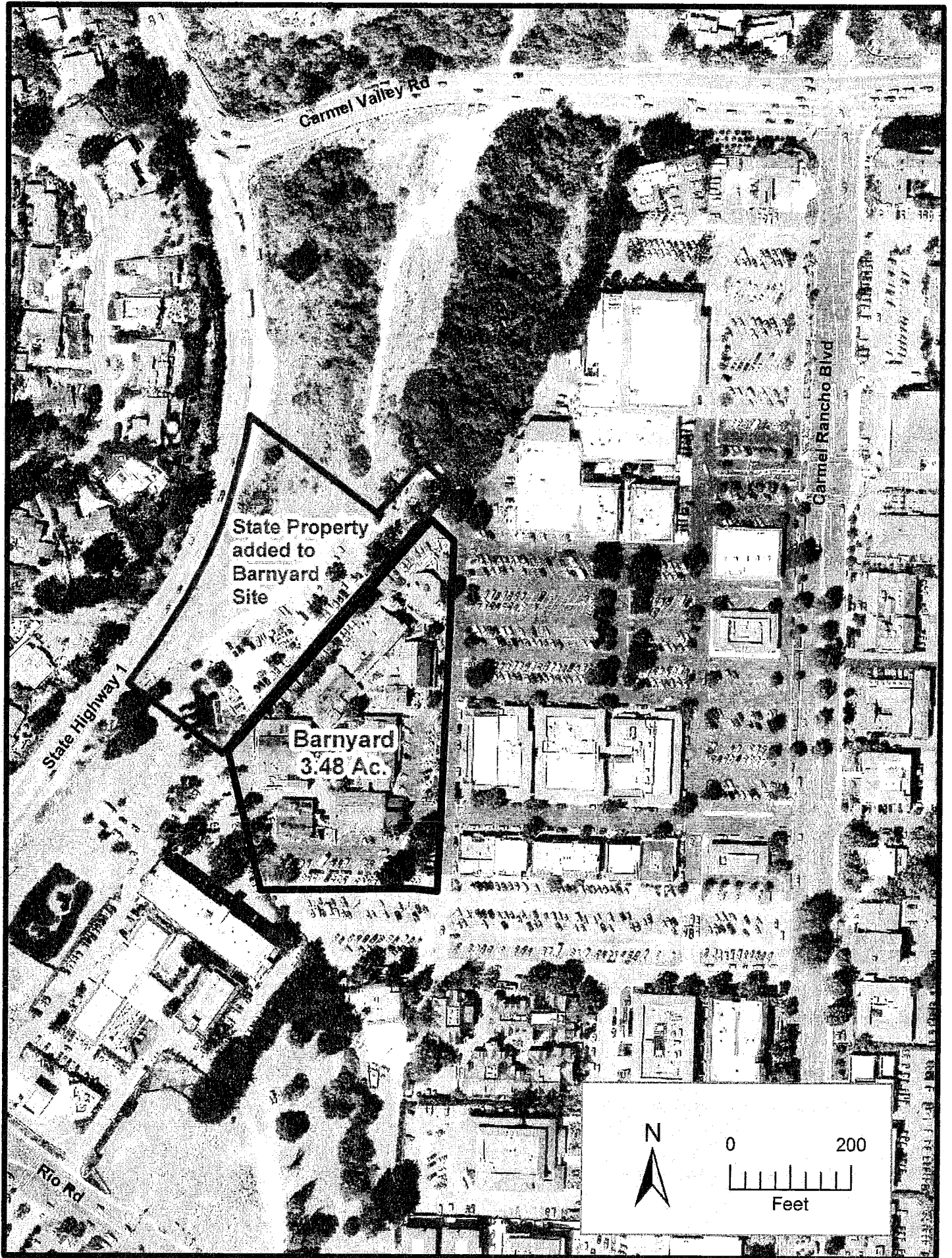
Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

4. PDSP001 - GENERAL DEVELOPMENT PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: A General Development Plan has been approved that adds a 2.6-acre portion of property owned by the California Department of Parks and Recreation (Portion of APN 015-011-005-000) to the existing Site Plan of the Barnyard Shopping Center approved under Zoning Permit No. ZA-2035-D and includes existing parking and trash enclosure facilities on the State Property as part of the approved uses of the Shopping Center. No other improvements on the Ste property are included in the General Development Plan. The General Development Plan (Site Plan) is attached hereto and incorporated herein by reference as a condition of approval.

Compliance or Monitoring Action to be Performed: The use on the 2.6-acre portion of the State Property added to the Shopping Center shall be limited to the existing uses within the State Property. No ther uses shall take place in the area without amending the General Development Plan.



Carmel Valley Rd

Carmel Rancho Blvd

State Highway 1

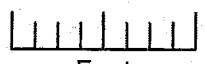
Rio Rd

State Property added to Barnyard Site

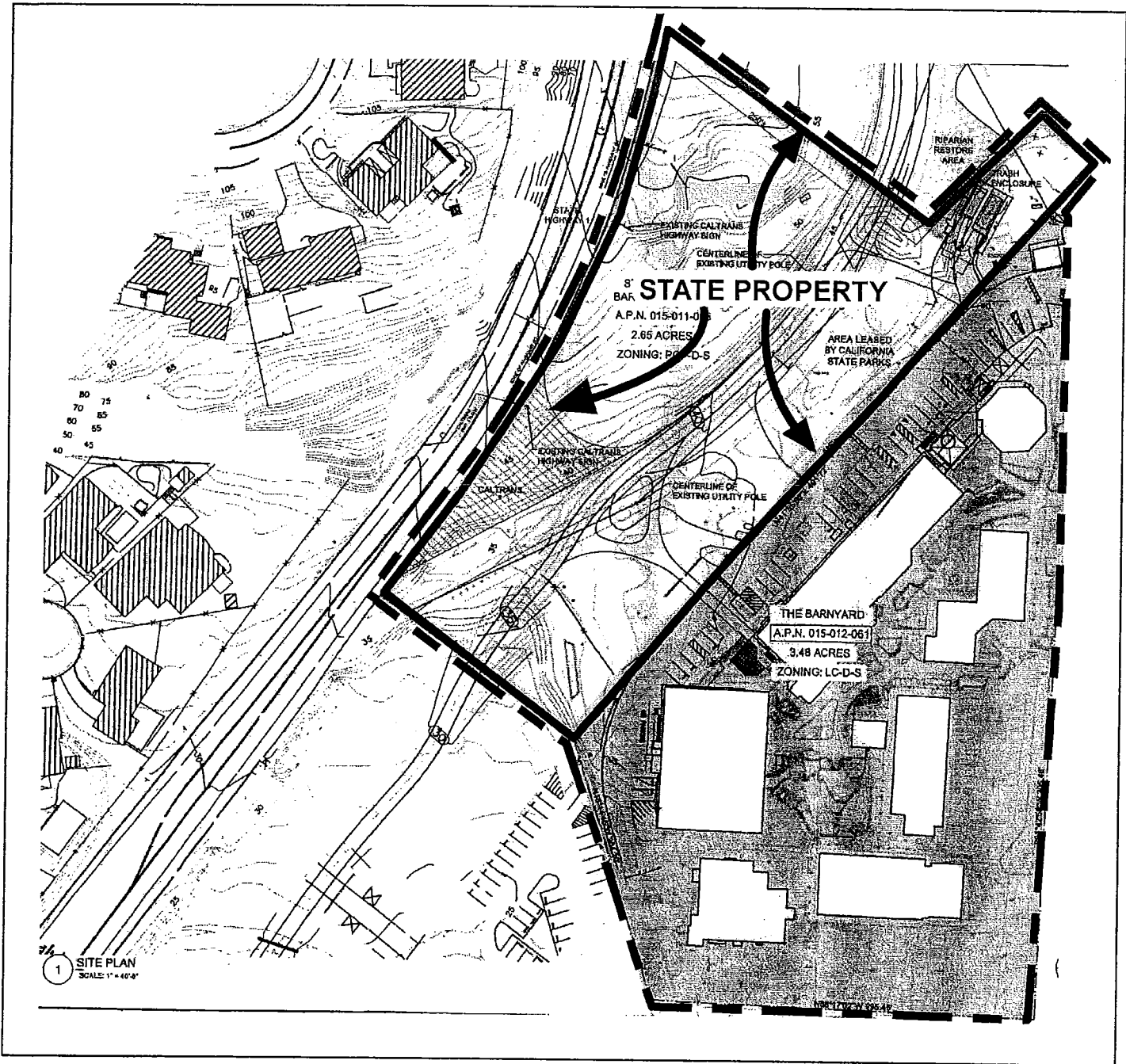
Barnyard
3.48 Ac.



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Feet



--- Amended General Development Plan