

Exhibit G

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

In the matter of the application of:

Bay Laurel, LLC (PLN020398)

RESOLUTION NO. 09037

Resolution by the Monterey County Planning
Commission:

- 1) Adopt the Mitigated Negative Declaration;
- 2) Approving Combined Development Permit (PLN020398 Bay Laurel, LLC) consisting of an Administrative Permit, General Development Plan and Design Approval for construction of 16 additional hotel units, and a 3,000 square-foot, two-story maintenance, storage and office building at the existing 57-unit Bernardus Lodge and including the demolition of two existing structures originally built as single family dwellings, construction of retaining walls and associated grading of 1,521 cubic yards of cut and 1,521 cubic yards of fill. Materials and colors to match existing. The property is located at 415 Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 187-131-044-000) Carmel Valley Master Plan area;
- 3) Adopt the Mitigation Monitoring and Reporting Program (Exhibit 1).

The Bay Laurel, LLC application (PLN020398) came on for public hearing before the Monterey County Planning Commission on July 29, 2009. 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:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

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 Monterey County General Plan,
- the Greater Monterey Peninsula Area Plan,
- the Greater Monterey Peninsula Area Plan, Inventory and Analysis,
- Monterey County Zoning Ordinance (Title 21),
- Carmel Valley Master Plan

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies

with the text, policies, and regulations in these documents.

- b) The property is located at 415 Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 187-131-044-000), Carmel Valley Master Plan. The parcel is zoned "LDR/2.5-D-S" & "VO-D-S" & "PQP-D-S &" (Low Density Residential, 2.5 acres per unit, Visitor Serving/Professional Office, and Public-Quasi Public with Design Control, and Site Plan Review Overlays). Although the subject property is comprised of six separate parcels, it is identified by one Assessor's Parcel Number and one address. The proposed development will take place on three of the parcels designated with the VO zoning designation, which allows for hotels and motels subject to a Use Permit. The subject property has been used historically as a hotel facility, the Carmel Valley Inn. In 1998, the County of Monterey approved an administrative permit (PLN980033) to allow the replacement of the 57 unit resort with a new 57 unit resort; which is now the Bernardus Lodge. The proposed project to expand the existing hotel with an additional 16 units and a maintenance, storage, and office building; is consistent with the provisions of the zoning district.
- c) The "D" (Design Control) overlay district requires that applications for development include design approval to allow review of the size, configuration, materials, and colors of the proposed structures, and to assure protection of the public viewshed, neighborhood character, and visual integrity of the area. Proposed materials and colors include board and batten exterior siding, stucco exterior siding, wood accents, and beige and light terra cotta colors to match the existing. The project will not affect the public viewshed, neighborhood character, and therefore is consistent with the provisions of the Design Control overlay.
- d) The project as designed is consistent with Policy No. 26.1.3.2 of the Carmel Valley Master Plan, the applicant will use muted neutral tones which will blend into the natural environment of Carmel Valley. The site plan review overlay district requires the County to review development for the potential to adversely affect or be adversely affected by natural resources or site constraints, and requires an Administrative Permit for the proposed development.
- e) The development includes removal of 23 trees. Section 21.64.260 requires a permit to remove any oak, redwood, or madrones which are greater than 6 inches at breast height. The trees slated for removal are Pine, Eucalyptus, and various fruit trees (Biological Report date July 2008, LIB080658). Therefore, no permit is required for their removal. However, the removal of trees has the potential to impact nesting birds. A mitigation measure has been added to ensure that the impact will be less than significant (see Finding No. 5, Evidence e). As additional tree protection, the project has been conditioned to require that trees within close proximity of construction activities be fenced off and protected.
- f) Erosion Control – Policy Nos. 3.1.1.1 of the Greater Monterey Peninsula Area Plan and 3.1.1.2; 3.1.1.3; 3.1.9; 3.1.15; and 35.1.3 of the Carmel Valley Master Plan require that new development implement erosion control measures during grading and construction activities as well as ongoing maintenance of erosion control measures. In addition, the Geological and Soils Engineering report has identified a potential

for highly erodible soils; therefore, the project has been mitigated (see Mitigation Measure No. 3) to require the applicant to submit an erosion control plan for review and approval by the RMA Building Department and the RMA Planning Department prior to issuance of any grading or building permit. The condition also requires that the applicant submit ongoing evidence of compliance with the implemented schedule.

- g) Archaeological resources – Policy Nos. 12.1.4.1 of the Greater Monterey Peninsula Area Plan and 12.1.6.1; and 12.1.8 of the Carmel Valley Master Plan require properties located within high archaeological zones to submit an archaeological report prior to development the subject properties. Figure 8 of the Greater Monterey Area Plan delineates the subject property to be located within a high archaeological sensitivity zone; therefore, a Preliminary Archaeological Reconnaissance (LIB090308) dated March 24, 2003 was submitted with the application. The report concludes that no materials frequently associated with prehistoric cultural resources were found onsite and no evidence of historic archaeological resources was noted during the archaeologist's reconnaissance. However, due to the high archaeological sensitivity of the site, the project has been conditioned to halt work if archaeological, historical, or paleontological resources are uncovered during the course of construction, and to have those materials evaluated by a qualified archeologist. (Condition No. 4) Therefore, the project is consistent with these policies.
- h) Fire hazards – Policy Nos. 17.3.1.1 of the Greater Monterey Peninsula Area Plan and 17.3.1.1; and 17.4.1.2 of the Carmel Valley Master Plan require that the project be evaluated by the appropriate fire district and that adequate equipment and roads for fire protection exist. The project was reviewed by the Carmel Valley Fire Protection District and conditions have been applied to the project to assure compliance with the policies of the area plan as well as the fire department regulations. (Condition Nos. 24-31)
- i) Visual sensitivity – Policy Nos. 40.2.9 of the Greater Monterey Peninsula Area Plan and 26.1.26 of the Carmel Valley Master Plan require that development in areas designated as visually sensitive on the “Visual Sensitivity and Scenic Routes” (Figure 17 of the Greater Monterey Peninsula Area Plan) shall be compatible with the visual character of the area using appropriate siting, design, materials, and landscaping. The site is located within the rear portion of the property, set back more than 100 feet from Carmel Valley Road, materials and colors will match the existing and vineyards will be planted in the foreground. The project is also conditioned (see Condition No. 14) to plant landscape screening near Carmel Valley Road in order to break up the mass of the proposed buildings.
- j) Rural character of Carmel Valley – Policy No. 4.2.2 of the Carmel Valley Master Plan encourages the rural agricultural nature of the Valley. The proposed project includes building material such as board and batten siding as well as planting of vineyards in the open area between the proposed buildings and Carmel Valley Road.
- k) Drainage – Policy No. 3.1.11 of the Carmel Valley Master Plan encourages all development projects to have on-site stormwater

retention and infiltration basins. The proposed project has been reviewed by the Water Resources Agency and a condition (Condition No. 22) has been applied which require the applicant to submit a drainage plan to the Water Resources Agency for review and approval prior to the issuance of any grading or building permits. The drainage plan shall be prepared by a registered civil engineer to address both on-site and off-site impacts. Stormwater collected from the proposed buildings shall be routed to the existing detention facilities on the subject property. The civil engineer shall also analyze the capacity of the existing facilities to determine the ability to detain the additional runoff. In addition, condition No. 23 requires the applicant to provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that the drainage improvements have been constructed in accordance with the approved drainage plan.

l) Visitor Serving Units in Carmel Valley – Policy No. 28.1.25 and of the Carmel Valley Master Plan states that expansions of hotels should be favored over the development of new project. The proposed project is consistent with this policy. Policy No. 28.1.27 of the Carmel Valley Master Plan requires a maximum of 250 additional visitor accommodation units east of Via Mallorca and that the overall density shall not be in excess of 10 units per acre. As of June 24, 2009, 164 visitor serving units have been approved in the area east of Via Mallorca and approval of the proposed development will result in 70 units remaining. The resulting density of the existing Bernardus Lodge and the proposed expansion will be 2.88 units per acre. The project as proposed is consistent with this policy.

m) The project was referred to the Carmel Valley Land Use Advisory Committee (CVLUAC) 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 because the proposed project requires California Environmental Quality Act (CEQA) review and the project has the potential to raise significant land use issues that necessitate review prior to a public hearing. On February 2, 2009 the CVLUAC conducted a publicly noticed site visit as well as had a regular meeting (see minutes attached as Exhibit E of July 29, 2009 staff report). Issues and concerns from the public include: environmental review, screening of light from inside of the rooms, the increased size of Bernardus Lodge, additional employees, changes in amenities and events, runoff, traffic, and the use of energy efficient products and materials such as solar panels. The applicant and County Staff were present at the meeting and addressed the public's concerns. In addition, the CVLUAC had concerns regarding traffic, visual impact, water, and height and recommended the following based on those concerns: provide a turn lane off of Carmel Valley Road into Bernardus Lodge, shift the brighter colors of the buildings so that they are less visible from the south, the on-site use of runoff, and reduction of height by reducing the slope of the roofs. Traffic has been analyzed in the Mitigated Negative Declaration (see Finding 5, Evidence h) as well as by Public Works staff (see Finding 3, Evidence d). Stormwater runoff has been analyzed by the Water Resources

Agency (see Finding 1, Evidence j). Colors and materials used for the expansion will match existing and the proposed height of the structures meets the height limit of 35 feet. However, the applicant has submitted revised plans removing the ventilation windows and reducing the two-story structures from 28 feet to 25 feet. The CVLUAC voted in support of the project with a vote of 6 ayes and 1 absent with recommended changes.

- n) 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 PLN020398.
- o) The project planner conducted a site inspection on November 12, 2008 to verify that the project on the subject parcel conforms to the plans listed above.

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

EVIDENCE:

- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Valley Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the Carmel Valley Fire Protection District, Public Works, Environmental Health, and Water Resources have been incorporated.
- b) Staff identified potential impacts to archaeological resources, biological resources, geological hazards, historical resources, and traffic. The project is consistent with the applicable policies as stated in Finding 1 above. Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
 - *“Archaeological Reconnaissance” (LIB090308) prepared by Archaeological Consultants, Salinas, CA, March 24, 2003.*
 - *“Bernardus Lodge Villas Biological Assessment” (LIB080658) prepared by Rana Creek Environmental Planning, Carmel Valley, CA, July 2008.*
 - *“Geologic and Soil Engineering Report” (LIB080659) prepared by LandSet Engineers, Inc., Salinas, CA, March 2009.*
 - *“Historical Analysis” (LIB090238) prepared by Kent Seavey, Pacific Grove, CA, dated March 12, 2003.*
 - *“Traffic Report” (LIB080657) prepared by Higgins Associates, Gilroy, CA, September 15, 2008.*
- c) Staff conducted a site inspection on November 12, 2008 to verify that the site is suitable for this use.
- 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 PLN020398.

3. **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) The project was reviewed by the RMA-Public Works Department, Environmental Health Division, Water Resources Agency, Carmel Valley Fire Protection District, the Monterey County Parks Department, and the Monterey County Sheriffs Department. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) The proposed hotel expansion will be served by an existing water purveyor, California American Water Company. When Bernardus Lodge was approved for development (File No. PLN980033) the resort included installation of on-site laundry facilities. In April 2008, the laundry facilities were removed from the subject property and a deed restriction was subsequently filed with the Monterey Peninsula Water Management District (MPWMD), reflecting the permanent abandonment of the laundry facilities. This resulted in a water credit of 3.740 acre feet. A MPWMD Water Release Form, dated February 11, 2009, has been submitted to the Water Resources Agency and subsequently approved. The Water Release Form indicates that the applicant plans to use 1.65 acre feet for the expansion, using the "Motel/B&B" water use factor, with a remaining credit of 2.09 acre feet. However, staff from the RMA – Planning Department has determined that the proposed hotel rooms will be the equivalent of the "Luxury Hotel" use factor. Using that figure, the expansion will use approximately 3.41 acre feet of water, leaving a remaining credit of approximately .33 acre feet. The applicant will not receive a Water Permit from MPWMD until the building permit process; therefore, these figures are approximations and will not be exact until that time.
- c) The proposed hotel expansion will be served by the existing wastewater system. On April 9, 1999, the Bernardus Lodge was issued Water Quality Order No. 97-10-DWQ by the California Regional Water Quality Control Board. The order allowed the operation of their domestic wastewater treatment and disposal system up to a maximum average daily flow of 20,000 gallons per day. Staff from the Division of Environmental Health has received a letter from Carmel Lahaina Utility Services, Inc. stating the anticipated wastewater flows, the actual flow records, as well as the anticipated increase generated by the proposed expansion. The letter concludes that the wastewater facility is capable of receiving the additional flows. The Environmental Health Division has recommended a condition of approval (Condition No. 19), requiring the owner or wastewater treatment operator ensure that all wastewater treatment system operation comply with the original Water

Quality Order No. 97-10 and Water Code Section 13267. Should a violation occur, the owner or wastewater treatment operator may be subject to civil liability.

- d) Review by the Public Works Department of the proposed project identified concerns regarding sight and safety for ingress and egress into the site. Public Works staff has verified that a warrant analysis determined that left turn channelization is required based on the cumulative traffic volumes and the Left Turn Channelization Policy adopted by Monterey County, using the "Two Lane Undivided Channelization Guidelines" nomograph. Therefore, the Public Works Department has required conditions of approval as follows: the first condition (Condition No. 16) requires the applicant to obtain an encroachment permit and construct a left turn channelizatlon (turn pocket) at the intersection of Laureles Grade and the Bernardus driveway prior to the issuance of any building permits; and the second condition (Condition No. 18) requires the applicant to obtain an encroachment permit and construct a new two-way left turn lane along the frontage of Carmel Valley Road. The installation of the dedicated turn lanes will enhance safety and traffic operations along the roadways accessing the project site.
- e) See Finding Nos. 1 and 2, 5 and supporting evidence for PLN020398.

4. 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.

EVIDENCE:

- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.
- b) Staff conducted a site inspection on November 12, 2009 and researched County records to assess if any violation exists on the subject property.
- c) 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 PLN020398.

5. 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 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. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN020398).
- c) The Initial Study identified several potentially significant effects, but

the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the RMA-Planning Department and is hereby incorporated by reference (see Exhibit G of the July 29, 2009 staff report).

- d) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetic resources, air quality, biological resources, geology and soils, hazards/hazardous materials, hydrology/water quality, land use and planning, noise, traffic and transportation, utilities and service systems. Aesthetics, air quality, hydrology/water quality, land use planning, noise, and utilities/service systems were found to be less than significant and biological resources, geology/soils, hazards/hazardous materials, and transportation/traffic were found to be potentially significant.
- e) Biological Resources – A biological survey was conducted by Rana Creek Environmental Planning on July 2, 2008. Although no nesting birds were present during the time of the survey, the trees slated for removal have the potential to provide habitat for nesting birds. Therefore, in order to comply with the Federal Migratory Bird Treaty Act, the project has been mitigated to require a preconstruction survey if tree removal and grading were to occur during nesting periods, between February 1st and July 30th. Therefore, the project will have a less than significant impact on biological resources with mitigations incorporated.
- f) Geology/Soils – A Geological and Soils Engineering Report, by LandSet Engineers Inc., dated March 2009, was submitted by the applicant. The report concluded that there is an active Foothill segment of the Tularcitos fault located adjacent and parallel to the northeastern property line of the subject property. In order to reduce the potential of exposing life or structures to a known geological hazard, the project has been mitigated to require that a geologist review the site grading and construction plans. The plans submitted for the grading and building permit shall have either a stamp or an accompanying letter acknowledging the review by the geologist and that the project plans conform to the recommendations found within the Geological Report. Due to a potential for highly erodible soils, the applicant is also required mitigate construction activities by including stringent erosion control measures recommended by the geotechnical engineer. Therefore, when built, the project will have a less than significant impact caused by geological hazard with mitigations incorporated.
- g) Hazards/Hazardous Materials – Due to the age of the structures to be demolished, there is a potential to expose people to hazardous materials such as lead and asbestos. Therefore, the project has been mitigated to require an asbestos survey conducted by a Certified Asbestos Consultant prior to the demolition of the structures. Thus the project will have a less than significant impact on hazards and hazardous materials with mitigations incorporated.
- h) Transportation/Traffic – A Traffic Impact Analysis, by Higgins Associates, dated September 15, 2008 was submitted by the applicant.

The Traffic Analysis concluded that the proposed project will contribute to the cumulative conditions to the Laureles Grade and Carmel Valley Road intersection; and therefore, in order to mitigate that impact, the applicant is required to pay Carmel Valley Master Plan Area Traffic Mitigation fee. The project is also required to mitigate impacts to regional traffic by paying a Transportation Agency for Monterey County (TAMC) Traffic Impact fee. In addition to the mitigations identified in the MND, the applicant is required to comply with conditions required by the Public Works Department (see Finding 3, Evidence d). Therefore, the project will have a less than significant impact on transportation and traffic with conditions and mitigations incorporated.

- i) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and 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 as **Exhibit 1**. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition No. 7).
- j) The Draft Mitigated Negative Declaration (“MND”) for PLN020398 was prepared in accordance with CEQA. Pursuant to CEQA Guidelines Section 15105, the public review period for a proposed MND shall not be less than 20 days when a project is not submitted to the State Clearinghouse for review by state agencies; therefore, the MND was circulated for public review from June 10, 2009 through July 1, 2009. Although the MND was not circulated to any state agencies during the review period, staff contacted the Regional Water Quality Control Board and the Department of Fish and Game with regards to the project. No comments were made, nor were there any issues brought up by the agencies. Issues that were analyzed in the Draft MND include aesthetic resources, air quality, biological resources, geology and soils, hydrology and water quality, land use and planning, traffic and transportation and utilities and service systems.
- k) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding No. 2), staff reports that reflect the County’s independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (PLN020398) and are hereby incorporated herein by reference.
- l) 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 (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. The site has the potential to support migratory birds. For purposes of the

Fish and Game Code, the project will have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. State Department of Fish and Game reviewed the MND to comment and recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee of \$1876.75 plus a fee of \$50.00 payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

- m) 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. Comments were received from the Monterey Bay Unified Air Pollution Control District, the Carmel Valley Association, LandWatch Monterey County, and from a neighboring property owner.
- n) Comments from the Monterey Bay Unified Air Pollution Control District (MBUAPCD) - The project is a non-residential population-related project and therefore, consistency with the AQMP must be evaluated on a case-by-case basis. The 16 new units are accommodated in the August 2008 AQMP and are therefore consistent. The comment letter from the MBUAPCD is attached to the MND as evidence. There is also a comment on project specific construction impacts to air quality. Staff has evaluated impacts using URBEMIS 2007 and rough estimations of a construction schedule for the project. The unmitigated totals for PM₁₀, NO_x, CO, and SO₂ caused by the project were well under the thresholds of significance and therefore will not have a significant impact on air quality.
- o) Comments from the Carmel Valley Association – Comments received include: parking, additional employees, traffic, the wastewater system capacity, water availability and water use, extension of the vineyard, use of pesticides on the vineyards, potential erosion, stormwater runoff, the number of special events, tree removal, potential use of solar energy, visibility, colors and materials, noise, the use of a right of way for employee parking, zoning, size of the development, lighting. These comments have been addressed within Findings 1, 2, 3, 4, 5, 6 and associated Evidence.
- p) Comments from LandWatch Monterey County – Comments received include: 1) addressing consistency of the project with the Carmel Valley Master Plan and 2) the cumulative traffic mitigation for the intersection of Carmel Valley Road and Los Laureles Grade. The project's consistency with the Carmel Valley Master Plan is identified in Section VI. 9 of the MND as well as Finding No. 1. The traffic mitigation identified in the MND for cumulative impacts to the intersection of Carmel Valley Road and Los Laureles Grade, require payment of a traffic mitigation fee. This fee is for the collection of a fair share fee, as part of the traffic impact fee ordinance (Board of Supervisors Resolution No. 95-140, adopted September 12, 1995), adopted for Carmel Valley Road which will address the projects cumulative impact identified resulting from the project. This is a sufficient mitigation pursuant to Article 15130.a.3 of the CEQA Guidelines.

- q) Comment from neighboring property owner – A comment letter received from a neighboring property owner identified concerns regarding surface drainage and a natural creek adjacent to the neighboring property. The Water Resources Agency reviewed the project and no significant impacts were identified; however the project has been conditioned to address stormwater runoff (see No. Finding 1, Evidence k). Based on staff's correspondence with the Water Resources Agency, the project meets the County setback requirement from a river and watercourse and the drainage plan submitted by the applicant will address on-site and off-site impacts.
- r) The Monterey County Planning Department, located at 168 W. Alisal, Second 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.

6. FINDING:

SUBSTITUTION OF MITIGATION MEASURES - The new mitigation measure is equivalent or more effective in mitigating or avoiding potential significant effects and that itself will not cause any potentially significant effect on the environment.

EVIDENCE: a) Mitigation Measure 1 has been revised as follows: "In order to minimize potential impact to nesting birds through construction activities, a preconstruction survey shall be conducted by a qualified biologist prior to disturbance within the development area, particularly if tree removal and grading are to occur between February 1st and July 30th August 31st. The survey shall primarily determine if there is a presence of nesting birds. If nesting birds are discovered on or near the building site, work shall be suspended and the California Department of Fish and Game should be consulted regarding measures to avoid impact. This change reflects the Department of Fish and Game's (DFG) standard recommendation for nesting birds. The DFG considers the breeding season to extend from February 1st through August to account for late broods and to reduce any impacts to fledglings that may be dependant on the nest site.

7. FINDING:

GENERAL DEVELOPMENT PLAN –Monterey County Code requires a General Development Plan (GDP) prior to the establishment of uses/development if there is no prior approved GDP, and if: 1) the lot is in excess of one acre; or, 2) the development proposed includes more than one use; or, 3) the development includes any form of subdivision.

EVIDENCE: a) Zoning Ordinance, Section 21.22.030 in a VO zoning district. The proposed project meets the size and number of uses criteria; therefore, a GDP is required to be approved by the Planning Commission prior to new development, changes in use, expansion of use, or physical improvement of the site.

b) The project as described in the application and accompanying materials was reviewed by the Planning Department, Carmel Valley Fire Protection District, Parks Department, Public Works Department, Environmental Health Division, Sheriff, and the Water Resources Agency. The respective departments have recommended conditions, where appropriate,

to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the county in general.

- c) A General Development Plan has been developed that identifies the existing development at Bernardus Lodge, the proposed expansion project, number of employees, parking, sign program, materials and colors, landscaping, exterior lighting, and trash and recycling. The GDP is attached hereto as **Exhibit 3** of this resolution and incorporated herein by reference. (See Condition No. 14).
- d) Staff conducted a site inspection on February 2, 2009, to verify that the proposed GDP and project are consistent with allowed uses for the VO zoning district and the existing use of the site.
- e) Materials in Planning File PLN020398.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

EVIDENCE: Section 21.80.040.D Monterey County Zoning Ordinance (Board of Supervisors).

DECISION

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

- A. Adopt the Mitigated Negative Declaration;
- B. Approve the Combined Development Permit (PLN020398 Bay Laurel, LLC) consisting of an Administrative Permit, General Development Plan (**Exhibit 3**) and Design Approval for construction of 16 additional hotel units, and a 3,000 square foot, two-story maintenance, storage and office building at the existing 57-unit Bernardus Lodge. The project includes demolition of two existing structures originally built as single family dwellings, construction of retaining walls and associated grading of 1,521 cubic yards of cut and 1,521 cubic yards of fill. Materials and colors to match existing; in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.
- C. Adopt the Mitigation Monitoring and Reporting Program (**Exhibit 1**)

PASSED AND ADOPTED this 29th day of July, 2009 by the following vote:

AYES: Brown, Isakson, Salazar, Vandevere, Sanchez, Diehl, Rochester, Ottone

NOES: None

ABSTAIN: None

ABSENT: Pessagno, Padilla



CARL HOLM, ACTING SECRETARY

COPY OF THIS DECISION MAILED TO APPLICANT ON AUG 21 2009

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

AUG 31 2009

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 4 years after the above date of granting thereof unless construction or use is started within this period.

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