



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

To: Hearing Officer  
From: Kerry Brown, Project Manager  
Date: December 19, 2014  
RE: Charvonia Minor Use Permit DRC2012-00085

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Per the request of Julie Vanderwier with the US Fish and Wildlife Service, staff is recommending revised conditions of approval. Ms. Vanderwier has concerns regarding consistency with the Minor Use Permit conditions of approval and the terms and conditions of the Federal Incidental Take Permit. The changes are as follows:

- Condition number 11, Ms. Vanderwier requests that the biologist be approved by the US fish and Wildlife Service.
- Condition number 31, Ms. Vanderwier requests that the timing of this condition be prior to site disturbance or vegetation clearing instead of prior to final building inspection. Condition number 31 is deleted and a new number 22 included with this change (the rest of the numbers are re-numbered).
- Ms. Vanderwier also raised concerns regarding the Minor Use Permit's consistency with the Federal Incidental Take Permit, a new condition (number 36) requires conformance with the terms and conditions of the Federal Incidental Take Permit.

These changes are attached (in track changes).

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EXHIBIT B - CONDITIONS OF APPROVAL

**Approved Development**

1. This approval authorizes a 5,335 square foot single family residence and a 400 square foot workshop and garage.

**Conditions required to be completed at the time of application for construction permits**

**Site Development**

2. Plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. (W-2) The applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance. All plants utilized shall be drought tolerant. Drip-line irrigation shall be used for all landscaped areas (except turf areas) installed for new construction. The drip irrigation system must include an automatic rain shut-off device, soil moisture sensors, and an operating manual to instruct the building occupant on how to use and maintain the water conservation hardware.
4. The applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

**Fire Safety**

5. At the time of application for construction permits, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Provide the County Department of Planning and Building with a fire safety plan approved by CalFire.

Field Code Changed

**Public Works**

6. The applicant shall submit a drainage, sedimentation, and erosion control plan for review and approval by the Department of Public Works.

**Services**

7. The applicant shall provide a letter from Golden State Water Company stating they are willing and able to service (water) the property.
8. The applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

**Conditions to be completed prior to issuance of a construction permit**

**Biological Resources**

9. (BR-1) Prior to issuance of construction permits, the applicant shall provide proof that issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884) as amended (Act), from the U.S. Fish and Wildlife Service has occurred.

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10. (BR-2) Pre-construction and construction monitoring surveys for Morro shoulderband snail will be conducted within the impact area and submitted to the County of San Luis Obispo.
11. (BR-3) All identified individuals of Morro shoulderband snail will be relocated, by an USFWS approved biologist individual in possession of a current valid recovery permit for the species to a USFWS-approved (approved by the service prior to the start of any monitoring surveys) offsite location, out of harm's way.
12. (BR-4) **Prior to site disturbance**, a continuous silt fence will be installed to establish the limits of the construction area. The fence will delineate the work zone and establish the limits of the construction area. The fence will remain in place throughout the duration of the project.
13. (BR-5) **Prior to site disturbance**, the applicant shall demonstrate that the development and presentation of a contractor and employee training program for Morro shoulderband snail has been completed.
14. (BR-6) **Prior to issuance of construction permits**, preservation in perpetuity of 10,454 square feet (on the eastern portion of the site) of maritime chaparral habitats occupied by Morro shoulderband snail in an easement in a form acceptable to the US Fish and Wildlife Service and County Counsel that will preclude any use not consistent with resource management.
15. (BR-11) **Prior to issuance of building permits**, highly visible orange construction fencing shall be installed (by a qualified botanist) around each sensitive plant at a buffer/extent width of 30 feet, where feasible, to protect the plants from harm during construction activities.
16. (BR-12) **Prior to issuance of building permits**, individual special status plant species that cannot be avoided by the proposed project shall be salvaged prior to the onset of construction activities, by a qualified botanist. Salvage plant species shall be relocated and re-installed within the existing and non-impacted area of non-native grassland that is located in the eastern portion of the site.
17. (BR-14) **Prior to issuance of building permits**, a restoration and mitigation monitoring plan shall be prepared by a qualified biologist or botanist according to the County of San Luis Obispo Guidelines for Revegetation/Restoration Plans, and shall result in habitat enhancement and the long term viability of the species. The restoration plan shall at a minimum include the following information: baseline information about the impact and restoration, specific goals and objectives, justification for selection of the restoration site, vegetation/restoration work plan, site protection and maintenance, performance standards used to evaluate the status of the plan in attaining the desired objectives, a monitoring plan to be conducted for a minimum of 5 years, adaptive management plan to implement if performance standards are not met, budget for all components of the plan, copies of data sheets to be used, and information on the monitoring reports. Monitoring reports shall be prepared by a qualified biologist or botanist and be submitted annually to the Environmental Division of the County of San Luis Obispo for review and approval.

**Water Resources**

18. (W-1) **Prior issuance of building permits**, the applicant shall submit to the Department of Planning and Building for review and approval evidence to the satisfaction of the Planning Director that the applicant has retrofitted enough existing

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homes and businesses to save twice the amount of water the new residence will use (consistent with Title 19).

### **Aesthetics**

19. (VS-1) **Prior to issuance of construction permits**, construction plans shall note that night lighting of the residence and access to the development shall be limited to minimal, downward-facing fixtures, sufficient only to provide safe access, and screened to not be seen off-site.

### **Fees**

20. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

### **Architectural Control Committee**

21. **Prior to issuance of a construction permit**, the applicant shall provide evidence to the Planning Department certifying that the Architectural Control Committee for Cabrillo Estates has reviewed and approved plans and specifications (unless the Architectural Control Committee does not exist).

22. ~~(BR-10) Prior to final building inspection site disturbance and vegetation clearing, the applicant shall payment of an in-lieu fee in the amount of \$8,352 to the US Fish and Wildlife Service.~~

### **Conditions to be completed during project construction**

#### ***Building Height***

2223. The maximum height of the project is 15 feet (as measured from the highest point of the lot).
- Prior to any site disturbance**, a licensed surveyor or civil engineer shall establish the highest point of the lot and set a reference point (benchmark).
  - Prior to approval of the foundation inspection**, the benchmark shall be inspected by a building inspector prior to pouring footings or retaining walls, as an added precaution.
  - Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

#### ***Biological Resources***

2324. (BR-9) A USFWS-approved biological monitor shall be present during the installation of construction fencing, initial vegetation clearing and grubbing, and earthwork in the form of initial grading and excavation. Any live Morro shoulderband snails found during these monitoring events will be captured and relocated to the conservation areas by the authorized biological monitor. This monitor shall have the authority to order any reasonable measure necessary to avoid the take of Morro shoulderband snail and to immediately stop any work or activity that is not in compliance with the conditions set forth in the ITP. The USFWS office in Ventura and the County of San Luis Obispo shall be notified of any "stop work" order and the order shall remain in effect until the issue has been resolved. No construction work will be initiated until the biological monitor determines that the work area is clear of Morro shoulderband snails.

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### Conditions to be completed prior to occupancy or final building inspection / establishment of the use

#### **Fire Safety**

2425. The applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.

#### **Driveway**

2526. **Prior to issuance of occupancy permit**, a concrete driveway measuring at least 9 feet in width and at least 3-1/2 inches thick extending from a concrete approach apron, shall be built in accordance with County Standard Improvement Specifications and Drawings, to the garage door.

#### **Development Review Inspection**

2627. The applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

#### **Water Resources**

2728. (W-3) **Prior to final building inspection**, landscaping shall be installed or bonded for to ensure the implementation of the landscaping consistent with the approved landscaping plan.

2829. (W-4) **Prior to final building inspection**, one of the following shall be installed as a part of the water supply system: 1) A "Point-of-use" supplemental water heater system in all bathrooms and kitchen, or 2) a circulating hot water system.

#### **Aesthetics**

2930. (VS-1) **Prior to final inspection or occupancy**, whichever occurs first, all exterior lighting shall comply with the lighting condition above. This condition shall be maintained for the life of the project.

#### **Biological Resources**

3031. (BR-7) **Prior to final building inspection**, the applicant shall complete the enhancement of 3,049 square feet of disturbed central maritime chaparral within the conservation easement to increase its value and function for Morro shoulderband snail.

34. ~~(BR-10) **Prior to final building inspection**, the applicant shall payment of an in-lieu fee in the amount of \$9,352 to the US Fish and Wildlife Service.~~

32. (BR-13) **Prior final building inspection**, the applicant shall replace at a 4:1 ratio all oak trees removed as a result of the development of the project and at a 5:1 ratio all Morro Manzanita plants and 2:1 ratio for all Mesa Horkelia removed. No more than 2 pygmy coast live oak tree having a five inch diameter or larger at four feet from the ground, 18 Morro Manzanita plants, and 10 individual mesa horkelia plants shall be removed as a result of the development of the project (as shown on the attached exhibit). Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, topsoil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).

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**On-going conditions of approval (valid for the life of the project)**

33. (BR-8) Annual reports and a final report will be submitted to the USFWS by December 31 of each year for the duration of the 10-year ITP and will include: (1) a brief summary or list of project activities accomplished during the reporting year (e.g., this includes development/construction activities, and other covered activities); (2) project impacts (e.g., number of acres graded, number of buildings constructed, etc.); (3) a description of any take that occurred for the covered species (includes cause of take, form of take, take amount, location of take and time of day, and deposition of dead or injured individuals); (4) a brief description of conservation strategy implemented; (5) results of monitoring (compliance, effects and effectiveness monitoring) and survey information (if applicable); (6) a description of circumstances that made adaptive management necessary and how it was implemented; (7) a description of any changed or unforeseen circumstances that occurred and how they were addressed; (8) all funding expenditures, balance, and accrual; and (9) a description of any minor or major amendments. Once construction activities are completed, these reports will be brief in nature and are not anticipated to add significant cost to the overall plan implementation costs.
34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. The applicant is subject to the terms and conditions of their Federal Incidental Take Permit TE-36029B-0.