

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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SANTA CRUZ, CA 95060
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11/18/99



ADMINISTRATIVE PERMIT NUMBER 3-99-065

Applicant..... Heritage Harbor Inc. (Thomas David, President)

Project location 99 Pacific Street, City of Monterey, Monterey County.

Project description Drill two to four test wells.

Executive Director's Determination: The findings for this determination, and for any special conditions, appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs. This permit will be reported to the Commission at the following time and place:

December 9, 1999 at 9 AM
Marin County Board of Supervisors Chambers
Administrative Building, Room 322
Marin County Civic Center, San Rafael
(415) 499-7331

IMPORTANT: Before you may proceed with development, the following must occur: Pursuant to Title 14 of the California Code of Regulations, Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, if applicable, we will send you a Notice of Administrative Permit Effectiveness. **Before you can obtain any local permits and proceed with development, you must have received both your administrative permit and the notice of permit effectiveness from this office.**

PETER DOUGLAS
Executive Director

By: LEE OTTER
District Chief Planner

EXECUTIVE DIRECTOR'S DETERMINATION

The Executive Director hereby determines that the proposed development is a category of development which qualifies for approval by the Executive Director through the issuance of an administrative permit (Public Resources Code Section 30624). Subject to Standard and Special conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, is partially located seaward of the first through public road and is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government to implement its certified Local Coastal Program in conformity with the provisions of Chapter 3, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

Heritage Harbor is a complex of office and commercial uses located at 99 Pacific Street, near the Custom House Plaza, in the City of Monterey. The complex was originally approved by the Commission in 1976 (Coastal Development Permit P-1510), with subsequent amendments in 1983 allowing for revisions in the amount of office and commercial uses allowed on the site.

During construction of the complex, archaeological resources were discovered, and an Archaeological Resource Management Plan was developed in coordination with the State Historic Preservation Officer (SHPO). Special Condition 5 attached to this permit requires the applicant to submit written evidence from SHPO that the proposed well drilling does not conflict with the provisions of this Archaeological Management Plan. This condition also requires that a qualified archaeologist be on-site to monitor all drilling activities, which must cease if any archaeological or paleontological resources are being impacted, until a appropriate mitigation measures are approved by SHPO, the City of Monterey, and the Executive Director of the Coastal Commission. Only with this condition is the project consistent with Coastal Act Section 30244 protecting such resources.

As stated in the application, the proposed test wells are being drilled in order to determine the viability of using an on-site water supply for domestic and/or non-domestic use. Additional sources of water are being sought by the property owner in order to facilitate completion of the remaining project components that were previously approved, but have not yet been built¹. Although there was adequate water allocated to serve the entire the project at the time of its original approval, the previous owner returned the unused portion of the allocation associated with the unfinished component of the project to the Monterey Peninsula Water Management Agency for a refund. The current owner is also exploring opportunities to convert some or all of the Heritage Harbor facilities to overnight visitor serving accommodations, which would require a greater amount of water than that which is currently allocated to serve the existing office and commercial uses on the site. Such a conversion would be subject to Coastal Commission review and approval of either an amendment to the original permit or a new coastal development permit.

As the Commission is well aware, the limited supply of water in the Monterey area is a major constraint to new development, and is a complex and controversial issue that has yet to be resolved. The primary

¹ The status of the permits required to construct the uncompleted components of the originally approved project will need to be resolved before any such construction takes place.

water purveyor in the region is the Cal-Am Water Company, which obtains its water from both the Carmel River and the Seaside aquifer. Withdrawals from both of these sources are expected to be near or above the safe yield of the watershed. As a result, there is very little, if any water currently available to support new development in the region. Thus, the option of obtaining water from on-site wells is being considered, as is the case here. This raises concerns regarding the consistency of such development with Coastal Act Section 30250, which requires that new development be located in areas where there is adequate *public* services to accommodate it, as discussed in more detail below.

In considering development proposals that would rely upon private water supplies, the Commission has emphasized the importance of managing limited water supplies on a regional basis, by a public agency or municipality that will take into consideration broader public interest and environmental concerns associated with new and increased water withdrawals. This has been particularly relevant during the Commission's consideration of applications for private desalination facilities, where it has been found that management and oversight by a public agency or municipality is an essential component to protecting public health and safety, as well as environmental resources. Similar issues are raised by private wells: how the use of such wells may affect other water users and aquatic resources within the watershed; and, whether the long term use of well water will be safe and sustainable.

In the Monterey region, the Monterey Peninsula Water Management District (MPWMD) plays an important role in addressing these issues by regulating new water systems through a Water Distribution Permit process, as does the County Department of Environmental Health through the well permit process. MPWMD also registers all new wells within the District boundary (which includes the project site), and requires that an annual water production report be submitted for each registered well. Evidence that the subject project is in compliance with MPWMD and County Health standards is required by Special Conditions 3 and 4 of this permit.

The current practice of MPWMD is to require Water Distribution Permits when sources of water (e.g., wells) provide service to two or more connections on either separately owned parcels, or non-contiguous parcels under single ownership. Based on this criteria, it does not appear that a Water Distribution Permit would be required for a proposal to use the test wells for domestic or non-domestic purposes². The potential proliferation of private water supply wells, many of which may not be subject to regulation by the Monterey Peninsula Water Management District through the Water Distribution System permit process, could impede efforts to address the appropriate allocation of limited water supplies on the Monterey Peninsula, and could hamper attempts to prevent water withdrawals from having an adverse impact on wetland and riparian resources. Expanding the use of private wells also raises concerns regarding the potential to induce the intrusion of seawater into aquifers that are currently relied upon as a source of domestic and/or agricultural water. Additionally, private wells in urban areas contradict the principal that urban development should be served by public facilities (e.g., municipal water and sewer systems).

At the same time, the use of private wells may offer opportunities to meet current and future water supply demands without exacerbating existing environmental problems associated with ongoing withdrawals from the Seaside Aquifer and Carmel River Basin. According to staff at the Monterey

² Subject to future determination by MPWMD.

Peninsula Water Management District, certain areas of Monterey are expected to be hydrologically disconnected from the Seaside aquifer and Carmel River Basin. Such areas are typified by bedrock formations, in which geologic fractures may support hydrologically independent aquifers or "Artesian Springs".

Clearly, a detailed study of geo-hydrologic conditions, water quantity and quality, and the relationship of such aquifers to other water sources, environmental resources, and seawater, must be designed, performed and reviewed by the appropriate regulatory and resource agencies before individual private wells can be relied upon as a long-term sustainable source of water. Before making the substantial investment required to address these important issues, it is reasonable to undertake well tests as a means to evaluate the potential benefit of such an investment. In authorizing such tests, the Commission finds it necessary to be explicit that, given the numerous unresolved issues associated with the use of such wells within an urban area, approval of test wells does not imply that the Commission will authorize use of the wells for domestic or non-domestic purposes in the future. Similarly, in order to avoid the potential for test wells to be used for purposes other than testing without the necessary authorizations, the Commission has required that the test wells be capped and sealed within two years of permit issuance, unless all approvals necessary for long-term retention of the wells, including the required Coastal Development Permit, are obtained.

Finally, to ensure that the drilling of the test wells will not adversely impact coastal access and recreation opportunities or coastal water quality, the Commission has conditioned the project in a manner that prohibits drilling operations from interfering with the use of public rights-of-way, and requires proper disposal of all drill spoils and test waters.

STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

1. **Scope of Permit.** This permit authorizes the drilling of two to four **test** wells, in the locations shown by Exhibit 1 (attached). All drilling and testing activities shall be conducted on private property owned by Heritage Harbor Inc., and shall not encroach within, or interfere with public use of, public right-of-ways. All spoils and mud generated by the drilling shall be disposed of at a licensed landfill on a daily basis; on-site stockpiling of the spoils is prohibited. In addition, any water generated from the drilling and/or testing shall be disposed of either at a licensed landfill, or via sanitary sewer in coordination with the Monterey Regional Water Pollution Control Agency; disposal of such water in the City of Monterey storm drain system or directly in the Monterey Bay is prohibited. By accepting this permit, the permittee acknowledges that the wells are for **testing purposes only**, and that the Commission's approval of this permit does not imply future approval of the Coastal Development Permit required to use the wells for domestic, non-domestic, or any purpose other than testing.
2. **Project Duration.** WITHIN TWO YEARS OF THE ISSUANCE OF THIS PERMIT (by **December 9, 2001**) the applicant shall submit, for Executive Director review and approval, evidence that: the test wells have been capped and sealed consistent with all applicable State and local requirements; or, that all necessary approvals for longer-term retention of the wells, including the required Coastal Development Permit, have been obtained.
3. **Monterey County Health Department Approval.** PRIOR TO THE COMMENCEMENT OF DRILLING, the permittee shall submit, for Executive Director review and approval, evidence that all necessary approvals have been obtained from the Monterey County Health Department.
4. **Compliance with Monterey Peninsula Water Management District Rules and Regulations.** The permittee shall be responsible for registering the test wells with the Monterey Peninsula Water Management District, and complying with all relevant District requirements. WITHIN ONE MONTH OF DRILLING EACH WELL, the permittee shall submit, for Executive Director review and approval, evidence that all requirements of the Monterey Peninsula Water Management District have been satisfied for each well drilled.
5. **Archaeological Resource Protection.** PRIOR TO THE COMMENCEMENT OF DRILLING, the permittee shall submit, for Executive Director review and approval, written evidence from the State Historic Preservation Officer that the drilling of the test wells does not conflict with the provisions of the Archaeological Resource Management Plan developed in 1979 to protect the archaeological resources on the Heritage Harbor site. In addition, the permittee shall ensure that a qualified archaeologist is on site to monitor all drilling activities. If the archaeologist identifies that drilling

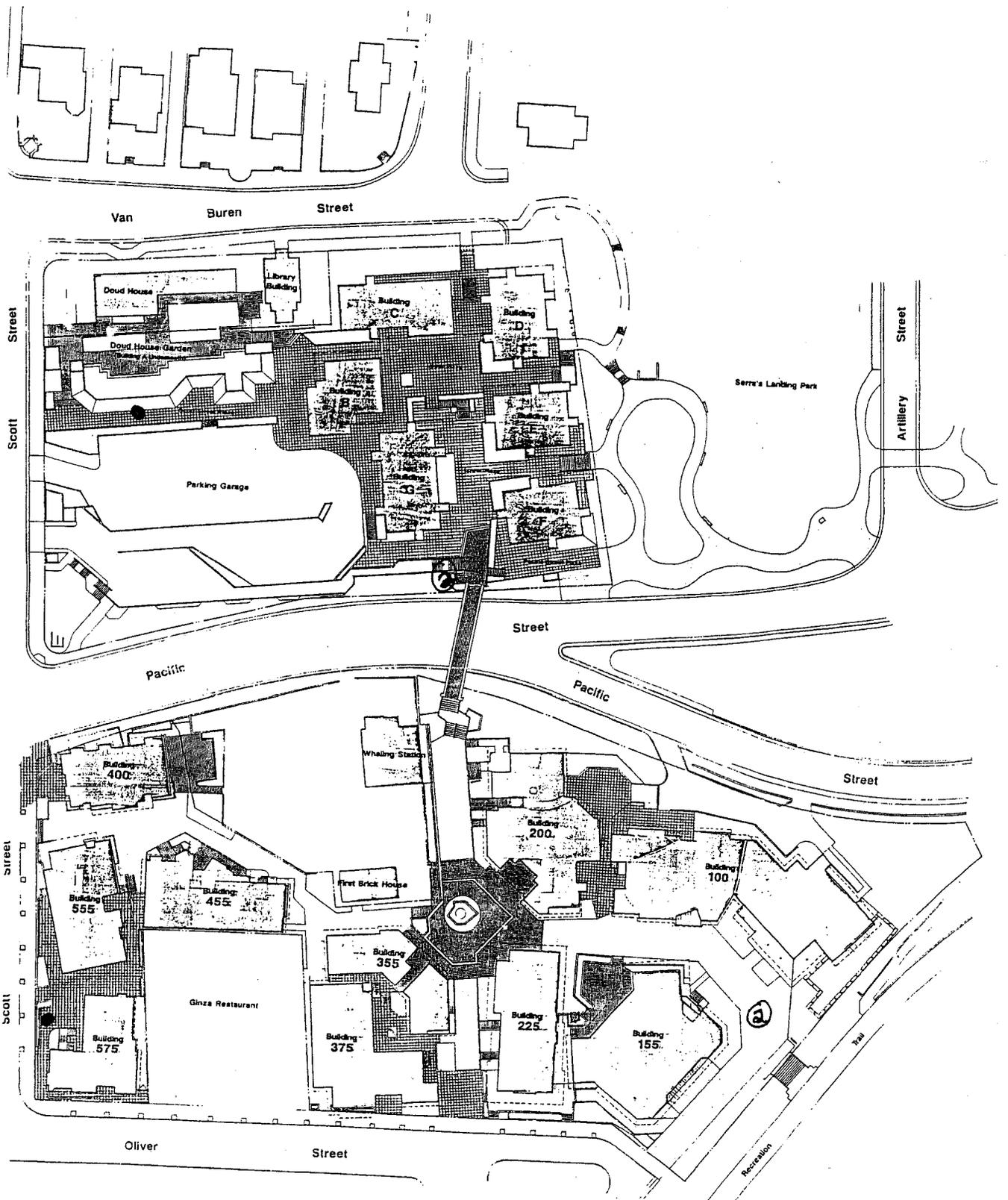
activities are uncovering or impacting archaeological or paleontological resources, all activities that may impact such resources shall cease until appropriate mitigation measures are reviewed and approved by the State Historic Preservation Officer, the City of Monterey, and the Executive Director of the Coastal Commission.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's signature

Date of signing



AREA PLAN

OLD MONTEREY'S HERITAGE HARBOR MONTEREY, CALI

- PRIMARY TEST WELL SITE
- ② SECONDARY TEST WELL SITE

EXHIBIT NO. 1
APPLICATION NO. 3-99-065
Heritage Harbor Test Wells
Well Locations