

RESOLUTION NO. 1450

RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT FINDING SPECIAL CIRCUMSTANCES AND GRANTING VARIANCE FOR SEWERAGE SERVICE FOR PROPERTY COMMONLY REFERRED TO AS "MOSS BEACH COMMUNITY PARK" AND MAKING FINDINGS AND CONCLUSIONS REGARDING SEWERAGE AND WATER SERVICE FOR SAID PROPERTY (APN 037-142-020)

BE IT RESOLVED by the Board of the Montara Water and Sanitary District, a public agency in the County of San Mateo, California, as follows:

1. Findings and Conclusions. The Board of the Montara Water and Sanitary District finds and concludes as follows:

a. Application has been made by Coastside Preservation and Recreation, Inc., a California non-profit corporation ("Owner"), for reinstituted sanitary sewerage service to its property located in the vicinity of Virginia and Etheldore Streets in unincorporated Moss Beach, County of San Mateo, California, which property is commonly referred to as "Moss Beach Community Park" ("Property"), designated by Assessor's Parcel Number 037-142-020, and is more particularly described in Exhibit "A," attached hereto and incorporated herein by reference.

b. The Property formerly included a structure used for school purposes which was subsequently removed upon an uncertain date, and thereafter devoted to community park usage.

c. Remnant evidence exists of a "building sewer" (as that term is defined in Section 3-1.100 d) of the Montara Water and Sanitary District Code ["MWSD Code"]) that connected the Property to the District's sewerage collection system.

d. It is more probable than not that said building sewer served the former structure located on the Property.

e. The former building sewer is not in a condition to meet all requirements of the District for use pursuant to MWSD Code Section 3-5.500.

f. The District's regulations require that no existing structure or new structure may be connected to the District's sewerage system without obtaining a permit therefor and payment of all required fees and charges (MWSD Code §3-9.100).

g. The Owner proposes to construct public restroom facilities on the Property for use in conjunction with the public park usage thereof.

h. Public park operations are consistent with, and in furtherance of, the purposes of this District (Water Code §31130, applicable to the District pursuant to Health and Safety Code §6512.7).

i. The proposed structure, viz., public restroom facilities, does not strictly conform to the kinds of structures contemplated by the District's regulations that require connection permits for new structures for sewerage service, including single-family units, multiple family units and other use units (MWSD Code §§3-1.100 o), p), ee)).

j. Correspondingly, payment of the full fee for connection of a new structure to the District's sewerage system would not be consistent with the nature of the structure proposed to be constructed by the Owner.

k. The foregoing facts constitute special circumstances pertaining to the Property that require suspension or modification of the provisions of the MWSD Code that otherwise would require payment of the full fee for connection of a new structure to the District's sewerage system.

l. Payment of the fee chargeable for the addition of fixture units to an existing structure under MWSD Code Section 3-9.500 a) would provide an equitable and reasonable charge for connection of the proposed restroom facilities to the District's sewerage system.

m. In light of the foregoing facts, variance to the requirement of the MWSD Code that would otherwise require payment of the full fee for connection of a new structure to the District's sewerage system should be modified and suspended to provide that the Owner shall pay a fee chargeable for the addition of fixture units to an existing structure in lieu thereof.

n. A water service connection has been provided to the Property for a drinking fountain and no new connection or the installation of an additional water meter is required for water service to the proposed restroom facilities (MWSD Code §5-3.201).

o. Provision of water service to the proposed structure and a drinking fountain through the existing meter on the Property would not constitute a violation of the

moratorium upon issuance of water connection permits currently in effect in the District (MWSD Code §5-4.229).

2. Conditional Variance Granted. Variance is hereby granted on the motion of this Board pursuant to the provisions of MWSD Code Section 3-2.500 to the requirements of MWSD Code Section 3-9.500 a) that otherwise would require payment of the full amount of the fee for connection of a new structure to the District's sewerage system and in lieu thereof the Owner shall pay the fee chargeable for the addition of new fixture units for the installation of restroom facilities on the Property in conjunction with use of the Property for a community park. This variance shall remain in effect for so long as the Property is used for community park purposes and does not pertain to the connection to the District's sewerage or water system of any structure other than the restroom facilities and drinking fountain described herein, including any existing structure or any other structure that may in the future be constructed or installed on the Property. Except as to the variance to the provisions of MWSD Code Section 3-9.500 a) granted herein, all other provisions of the District's sewerage and water system regulations, including, without limitation, payment of all applicable fees and charges, shall apply to the connection to, and use of, said systems with regard to the Property.

3. Effective date. This resolution shall be effective upon the date of its adoption.

4. Recordation. The District Secretary is hereby authorized and directed to submit a certified copy of this resolution to the County Clerk-Recorder, County of San Mateo, California, for recordation in the Official Records of said County.



President, Montara Water and Sanitary District
Paul Perkovic

COUNTERSIGNED:



Secretary, Montara Water and Sanitary District
Scott Boyd

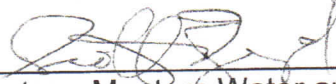
* * * *

I HEREBY CERTIFY that the foregoing Resolution No. 1450 was duly and regularly adopted and passed by the Board of the Montara Water and Sanitary District, County of San Mateo, California, at a Regular Meeting thereof held on the 18th day of June, 2009, by the following vote:

AYES, Directors: Boyd, Harvey, Perkovic, Slater-Carter

NOES, Directors: None

ABSENT, Directors: Ptacek



Secretary, Montara Water and Sanitary District