

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 02006

A. P. # 125-243-004-000

**FINDINGS AND DECISION**

In the matter of the application of  
**Vincent and Yashau MacShate (PLN010262)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located at 76 Crazy Horse Canyon Road, east of U.S. Highway 101, Prunedale area, came on regularly for hearing before the Planning Commission on January 30, 2002.

WHEREAS: Said proposal includes:

- 1) Use Permit for development on slopes of greater than 30 percent, and
- 2) Use Permit for removal of 11 oak trees

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. FINDING: The proposed single-family residence, grading and tree removal are consistent with the North County Area Plan designation of "Resource Conservation, 1 Unit per Lot," and with the policies of the Monterey County General Plan, regarding permitted uses and density.  
EVIDENCE: The Land Use Plan and the text and policies of the North County Area Plan and the Monterey County General Plan were evaluated during the review of the application. The proposed single-family residence is consistent with the land use designation and density allowed under the North County Area Plan.  
EVIDENCE: The proposed project was reviewed by the North County Land Use Advisory Committee (Non-Coastal) at two of its meetings, and it recommended approval (4 ayes, 1 no, 2 abstention).
2. FINDING: The proposed single-family residence use is consistent with the "RC/B8" (Resource Conservation) zoning of the property with respect to permitted uses and density.  
EVIDENCE: Under Chapter 21.36 of Title 21 (Zoning) of the Monterey County Code, one single-family dwelling per lot is a permitted use, and does not require any discretionary permit.  
EVIDENCE: Application, building plans and other materials in project File No. PLN010262, and the administrative record.
3. FINDING: There is no feasible alternative which would allow development to occur on slopes of less than 30 percent, and the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan.  
EVIDENCE: Development on slopes of greater than 30 percent is required in connection with improvements to an existing access road to the proposed building site. These improvements are required, primarily at the two "switch-back" sections of the access road where provision must be made for adequate fire access. Conditions 7 through 10, placed by the North County Fire District, are ordinance provisions that require grades that do not exceed 15 percent, adequate turning radii, and adequate roadway turnarounds and turnouts.

**EVIDENCE:** Two alternative building sites to the proposed building site were considered during the review process. The first alternative site is located on flat land adjacent to the property entrance. This site is the low point of the property, and was rejected because of its proximity to a well, and because of potential drainage problems. The second site is located on a relatively flat intermediate area above the first site. This site was rejected because it is needed to accommodate the septic leach fields. In addition, it would require a modified access road with more grading and more tree removal, and it would require a large retaining wall.

4. **FINDING:** The tree removal is the minimum required under the circumstances of this project consistent with Section 21.64.260 of Title 21 (Zoning).

**EVIDENCE:** The Applicant proposes to remove 11 oak trees out of an estimated total of 65 to 80 oak trees on the property. The building site itself is located on a relatively flat portion of the property where no oak trees are proposed for removal. Removal of the 11 oak trees is required, primarily at the two “switch-back” sections of the access road where provision must be made for adequate fire access. The Forest Management Plan for the property recommends replacement of the removed oak trees on a one-for-one basis, consistent with Section 21.64.260 of Title 21, and makes recommendations for protection of the remaining oak trees located near the development activity. Conditions 14 and 15 implement the recommendations of the Forest Management Plan.

**EVIDENCE:** “Forest Management Plan,” prepared by Webster & Associates, Capitola, California, August 22, 2001.

5. **FINDING:** The removal of the 11 Oak trees under this permit will not involve the risk of an adverse environmental impact.

**EVIDENCE:** Due to the location of the lot, topography and nature of the tree removal, there will not be increases in erosion or significant impacts to water quality and localized ecology resulting from the oak tree removal. The proposed oak tree removal will not result in increased ambient noise levels and will not have a substantial adverse impact on existing biological and ecological systems. An Initial Study was prepared for the grading of the property and was filed on October 30, 2001. Condition 13 requires a Scenic Easement to preserve the natural character of the undeveloped portions of the property.

6. **FINDING:** The project does not constitute ridgeline development as provided in Sections 21.06.950 and 21.68.010 of Title 21 (Zoning) of the Monterey County Code.

**EVIDENCE:** The peak of the proposed residence was staked and flagged; Planning and Building Inspection Department staff conducted on-site inspections of the project, and determined that the project as conditioned will not have an adverse visual impact when viewed from Crazy Horse Canyon Road, Executive Drive, and U. S. Highway 101.

**EVIDENCE:** Substantial tree and vegetation cover exists above and below the building site, and such will soften views of the proposed residence from public viewing areas. Condition 13 requires that the applicant submit a site plan showing a building envelope drawn around the proposed residence, provides that the applicant may delineate two other limited areas on the property for the purpose of locating uses accessory to the residential use, and requires that a Scenic Easement Deed be recorded for the remainder of the parcel.

**EVIDENCE:** Application, building plans and other materials in project File No. PLN010262, and the administrative record.

7. **FINDING:** The site is suitable for the proposed single-family residence.

**EVIDENCE:** There are no physical or environmental constraints, such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar conditions, that would indicate that the site is not

suitable for the proposed use, nor is there other evidence in the record to indicate that the site is not suitable for the project.

EVIDENCE: Geotechnical Investigation, dated August 2, 2000, prepared for the property by General Engineering Services, Los Gatos, California.

EVIDENCE: Condition 18 requires that the applicant record a notice stating that a Geotechnical Investigation was prepared for the property, and that the recommendations set forth in said report shall be followed in all further development of the property.

8. FINDING: The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Negative Declaration has been prepared for grading at the project site and is on file (File No. PLN010262) in the Monterey County Planning and Building Inspection Department. All project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of project approval. Potential environmental effects have been studied, and there is no substantial evidence in the record as a whole that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 2620 First Avenue, Marina, California, is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based.

EVIDENCE: County staff prepared an Initial Study for grading at the project site in compliance with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Negative Declaration for grading at the project site was filed with the County Clerk on October 30, 2001, and noticed for public review. All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Project Application, Plans and correspondence in Project File No. PLN010262.
2. North County Area Plan, Monterey County, May 1987.
3. "Monterey County General Plan," Monterey County, 1982.
4. Title 21 (Zoning) of the Monterey County Code, Monterey County, August, 1997.
5. Chapters 16.08 (Grading) and 16.12 (Erosion Control) of Title 16 of the Monterey County Code.

9. FINDING: The remainder of the project, aside from the grading, is categorically exempt under Section 15303(c) of the Monterey County CEQA Guidelines relating to small structures.

EVIDENCE: Application and materials located in project File PLN010262, and the administrative record.

10. FINDING: The subject property is in compliance with all rules and regulations pertaining to the use of the property, no violations exist on the property, and all zoning abatement costs, if any, have been paid.

EVIDENCE: Staff review of the Monterey County Planning and Building Inspection records indicated that the

files opened for investigation of tree removal without permits and grading without permits have been closed. The applicant has complied with the County Grading and Erosion Control ordinances to the satisfaction of Director of Planning and Building Inspection. Condition 3 requires the submission of a drainage and erosion control plan to the County prior to the issuance of building permits.

11. FINDING: Adequate sewage disposal and water supply facilities are available on the site.  
EVIDENCE: Application, materials, and interdepartmental correspondence located in File PLN010262.
12. FINDING: For purposes of the Fish and game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which wildlife depends.  
EVIDENCE: Staff analysis contained in the Initial Study for the grading and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The project involves grading on slopes of greater than 30 percent, removal of 11 oak trees, and construction of a single-family residence on the site. Changes to native and non-native plant life and the soil required to sustain habitat for fish and wildlife would occur as a direct result of the project.
13. FINDING: Necessary public facilities are available for the proposed use, and the conditions of approval are appropriate.  
EVIDENCE: The project has been reviewed by the Planning and Building Inspection Department, Public Works Department, Health Department, Water Resources Agency, and North County Fire District. The conditions incorporate the concerns and recommendations of these departments and agencies.
14. FINDING: The establishment, maintenance, or operation of the uses and buildings applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, or to the general welfare of the County.  
EVIDENCE: Findings and Evidence set forth above.

### **DECISION**

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. This permit is a Combined Development Permit consisting of a Use Permit for development on slopes of greater than 30 percent and a Use Permit for removal of 11 Oak trees. This permit consists of widening an existing road to serve a residential building site with a proposed 4,147 square-foot two-story single-family residence and a 1,265 square-foot attached garage. This permit is in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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 Planning and Building Inspection. 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. (Planning and Building Inspection)

### **Prior to Issuance of Grading and Building Permits:**

2. The applicant shall obtain an encroachment permit from the Department of Public Works and construct a standard driveway to Crazy Horse Canyon Road with adequate sight distance. (Public Works)
3. A drainage and erosion control plan shall be prepared by a registered civil engineer or architect to address and off-site on-site impacts. Storm water runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. (Water Resources; Planning and Building Inspection)
4. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. (Water Resources)
5. The applicant shall demonstrate the capability of the water system to support the required fire sprinkler system as well as to meet concurrent domestic water demands. (North County Fire District)
6. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. (North County Fire District)
7. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent. (North County Fire District)
8. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. (North County Fire District)
9. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be minimum of 60 feet in length. (North County Fire District)
10. Roadway turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper on each end. (North County Fire District)
11. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals. (North County Fire District)
12. All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, or when a 30 foot minimum setback cannot be reached, alternate fuel modification standards may be imposed by the local fire jurisdiction to provide the same practical effect. (North County Fire District)
13. The applicant shall submit a site plan showing a building envelope drawn around the proposed residence, and may delineate two other limited areas on the property for the purpose of locating uses accessory to the residential use. A Scenic Easement Deed shall be recorded for the remainder of the parcel. The Scenic Easement Deed shall be submitted to and approved by the Director of Planning and Building Inspection prior to the issuance of any building permits. (Planning and Building Inspection)

14. Prior to the issuance of building or grading permits, the 11 oak to be removed shall be replaced on a one-for-one basis to the satisfaction of the Director of Planning and Building Inspection. An annual report on the health of the replacement trees shall be submitted to the Director of Planning and Building Inspection for a period of five years. The report shall make provision to replace any replacement trees which may die or be destroyed. (Planning and Building Inspection)
15. Prior to the issuance of grading or building permits, the applicant shall submit to the Director of Planning and Building Inspection a plan setting forth measures to be taken to protect the remaining oak trees during construction; such measures shall include the following:
  - a. Trees and root systems in or near development areas shall be protected by placing barriers around tree driplines and by wrapping tree trunks; grading and other development activity within or near tree drip lines shall not adversely affect trees to remain;
  - b. Care shall be exercised in removing trees slated for removal to avoid impact on the root systems of remaining trees; and
  - c. Ongoing monitoring of the health of the remaining trees which may be impacted by development activity, including those trees adjacent to impervious surfaces, shall be conducted.

A report demonstrating compliance with the above measures shall be submitted to the Director of Planning and Building Inspection once during construction, and at the conclusion of construction. (Planning and Building Inspection)

16. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan for the MacShate Residence, dated August 22, 2001, has been prepared for this parcel by Webster and Associates, Capitola, California, and is on record in the Monterey County Planning and Building Inspection Department. All tree removal on the parcel must be in accordance with the Forest Management Plan, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to issuance of building or grading permits. (Planning and Building Inspection)
17. Prior to the issuance of any building permits, the applicant shall continue to comply with the County Grading and Erosion Control ordinances to the satisfaction of the Director of Planning and Building Inspection. (Planning and Building Inspection)
18. The Applicant shall record a notice with the Monterey County Recorder stating that: "A Geotechnical Investigation, dated August 2, 2000, was prepared for the property by General Engineering Services, Los Gatos, California, and is on file in the Monterey County Planning and Building Inspection Department in Project File No. 010262. The recommendations set forth in said report shall be followed in all further development of this property." This notice shall be recorded prior to issuance of building. (Planning and Building Inspection)
19. The body, trim and roofing of the house shall utilize earth tones or other colors which blend with the natural environment. Evidence of compliance with this condition, including the submission of color samples, shall be provided to the Director of Planning and Building Inspection prior to the issuance of any grading or building permits. (Planning and Building Inspection)
20. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit two copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and

Building Inspection prior to the issuance of building permits. (Planning and Building Inspection)

21. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the issuance of any building permits. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection)
22. The applicant shall record a notice which states: "A Permit (Resolution # \_\_\_\_\_) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 125-243-004 on January 30, 2002. The permit was granted subject to 28 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)

**Prior to Final Inspection/Occupancy:**

23. The Applicant shall comply with Ordinance No. 3539, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
  - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
  - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources)
24. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:
 

The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection.  
(North County Fire District)
25. All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface, shall require a minimum of Class B roof construction. (North County Fire District)
26. Before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. (North County Fire District)

27. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. An \$84 landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. (Planning and Building Inspection Department)

**Continuous Permit Condition:**

28. All landscaped areas and/or fences shall be continuously maintained by the Applicant, and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)

**PASSED AND ADOPTED** this 30th day of January, 2002 by the following vote:

AYES: Errea, Hawkins, Parsons, Brennan, Diehl, Hernandez, Lacy, Wilmot  
NOES: None  
ABSENT: Sanchez, Pitt-Derdivanis

Original Signed By:

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DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 90<sup>th</sup> 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 and Building Inspection Department office in Salinas.

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