

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

RESOLUTION NO. 02068

A. P. # 169-321-003-000

**FINDINGS AND
DECISION**

In the matter of the application of
Kenny & McFarland (PLN010238)

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 the terminus of Via Cazador, north of Carmel Valley Road, west of Tierra Grande Drive, Carmel Valley, came on regularly for hearing before the Planning Commission on November 13, 2002.

WHEREAS: Said proposal includes:

- 1) Administrative Permit to allow the construction of a single-story, single-family dwelling (4,029.9 sq. ft. with an attached 732 sq. ft. garage) and grading (600 cubic yards cut, 400 cubic yards fill) in a site plan review zoning district;
- 2) Administrative Permit for the construction of a two-story, second single-family dwelling (6,907 square feet with an attached 1,332 square feet garage) not exceeding the zoning density of the parcel,
- 3) Administrative Permit for a guesthouse (600 sq. ft.); and access road improvements, including grading to install a culvert (500 cu. yds. cut, 440 cu. yds. fill), to slope improvements, and asphalt paving;
- 4) Use Permit to allow the removal of 35 oak trees (six or more inches in diameter); and
- 5) Design Approval

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

FINDINGS OF FACT

1. **FINDING:** Combined Development Permit (PLN010238/Kenny & McFarland) consisting of an Administrative Permit to allow the construction of a single-story, single-family dwelling (4,029.9 sq. ft. with an attached 732 sq. ft. garage) and grading (600 cu. yds. cut, 400 cu. yds. fill) in a Site Plan Review zoning district; an Administrative Permit for the construction of a two-story, second single-family dwelling (6,907 sq. ft. with an attached 1,332 sq. ft. garage) not exceeding the zoning density of the parcel, an Administrative Permit for a guesthouse (600 sq. ft.); and access road improvements, including grading to install a culvert (500 cu. yds. cut, 440 cu. yds. fill), toe slope improvements, and asphalt paving; a Use Permit to allow the removal of 35 oak trees (six or more inches in diameter); and Design Approval. The parcel is zoned "LDR/1-D-S-RAZ" or Low Density Residential with Design Control, Site Plan Review, and Residential Allocation Zoning overlay districts. The project is consistent with the policies of the Monterey County General Plan, the Greater Monterey Peninsula Area Plan, the Carmel Valley Master Plan, and the requirements and standards of the Monterey County Zoning Ordinance (Title 21). The proposed guesthouse also complies with all applicable requirements of Section

21.64.020(C) of Title 21 (regulations for guesthouses). The site is physically suitable for the use proposed. No unresolved violations exist on the property, and all zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) Monterey County General Plan
- b) Greater Monterey Peninsula Area Plan
- c) Carmel Valley Master Plan
- d) Chapters 18.48 (Regulations Regarding Development in the Carmel Valley Master Plan Area), 18.60 (Carmel Valley Road Traffic Mitigation Fee), 21.14 (LDR Zoning Regulations), 21.44 (Design Control Regulations), 21.45 (Site Plan Review Zoning Regulations), 21.52 (Residential Allocation Zoning), and 21.64.260 (Preservation of Oak and Other Protected Trees) of the Monterey County Zoning Ordinance.

EVIDENCE: The allocation system set forth in the Carmel Valley Master Plan (CVMP) does not prohibit building two residential units on a single legal lot of record (Carmel Valley Master Plan, "Implementation" chapter, at pp. 37-38; see also MCC, section 18.48.030.B and section 21.52.040). The CVMP allocation system contemplates that more than one unit could be built on a legal lot of record, subject to a formula for not exceeding the total quota of units established for the life of the plan. The subject parcel was one of the original 572 existing lots of record at the time of the adoption of the CVMP. Out of a total of 738 lots originally allocated for creation at the time of the adoption of the CVMP, 581 could still be created as of December 7, 1999 (the time of the last subdivision allowed in Carmel Valley; file no. PLN970409). The CVMP allocation system requires that the allowable subdivision total be reduced by one (to 580) with the granting of one additional residence on the subject parcel (in excess of the first residence allowed on the parcel).

EVIDENCE: Condition of approval #10 requires the payment of the Carmel Valley Road Traffic Mitigation Fee and the Highway 1 Fee prior to the issuance of building permits.

EVIDENCE: Condition of approval number 8 ensures compliance with Section 21.64.020(C) of Title 21 (regulations for guesthouses).

EVIDENCE: The application and plans submitted for the Combined Development Permit contained in the project file (PLN010238) at the Monterey County Planning and Building Inspection Department.

EVIDENCE: Design Approval Request form with plans recommended for denial by the Carmel Valley Land Use Advisory Committee with a 4 to 3 vote; found in File No. PLN010238.

EVIDENCE: The on-site inspection of the parcel by the project planner.

EVIDENCE: The geologic reports and addendum prepared by Gasch & Associates, June 2001, December 2001, and June 2002.

EVIDENCE: The archaeological report prepared by Archeological Consulting, dated February 7, 2001, contained in the project file (PLN010238), the results of which were negative. Condition number 45 requires that work be stopped in the event that any archaeological resources are found on site.

EVIDENCE: There has been no substantial evidence received during the course of the public noticing period and public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Carmel Valley Fire Protection District, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no unresolved violations exist on subject property.

2. FINDING: Pursuant to Section 15300.2(c) of the CEQA guidelines, the proposed project cannot be categorically exempted because of a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances. Therefore, an Initial Study has been prepared. It has been determined that the proposed project as mitigated, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File # PLN010238) at the Planning & Building Inspection Department. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project, or are conditions of approval. A Mitigation Monitoring and Reporting Program (hereafter “the Program”) has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is attached hereto as Exhibit “G” and is incorporated herein by reference. 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 Mitigated 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 & Building Inspection Department, located at 2620 1st Avenue, Marina, CA is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on September 27, 2002, noticed for public review and circulated to the State Clearinghouse. 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. The Geologic Hazard Investigation of the Proposed John P. Kenny Residential Site in the Rancho Tierra Grande Subdivision No. 3 (Gasch & Associates, June 2001)
2. The Geologic Hazard Investigation of the Proposed Barbara McFarland Residential Site C in the Rancho Tierra Grande Subdivision No. 3 (Gasch & Associates, December 2001)
3. Addendum to the Geologic Hazard Investigation of the Proposed John P. Kenny Residential Site in the Rancho Tierra Grande Subdivision No. 3 (Gasch & Associates, June 2002)
4. Geotechnical Soils Foundation and Geoseismic Design Report for the Proposed McFarland Residence (Grice Engineering and Geology, Inc., May 2001)
5. Geotechnical Soils Foundation, Geoseismic Design Report, and Erosion Control Report for the Proposed John and Martha Kenny Residence (Grice Engineering and Geology, Inc., May 2001)
6. Slope Stability Study for John and Martha Kenny Residence (Grice Engineering and Geology, Inc., May 2002)

7. Slope Analysis Station 2+75 and Residence Site (Grice Engineering and Geology, Inc., May 2002)
8. Preliminary Archeological Reconnaissance of Assessors Parcel Number 169-321-003, Carmel Valley, Monterey County, California (Archeological Consulting, February 2001)
9. Forest Management Plan for Residential Parcel 169-321-003-000, Carmel Valley, Monterey County, California (Glenn C. Flamik, June 2001)
10. Biological Report for the John and Martha Kenny and Barbara McFarland Residences (Vern Yadon, February 5, 2002)
11. Biological Report for the John and Martha Kenny and Barbara McFarland Residences (Vern Yadon, February 28, 2002)
12. Addendum to the Biological Report for the John and Martha Kenny and Barbara McFarland Residences (Vern Yadon, July 2002)
13. Comprehensive Biological Resources Assessment for the Kenny/McFarland Property (APN 169-321-003-000) (EMC Planning Group, Inc., August 2002)

3. **FINDING:** For purposes of the Fish and Game Code, the project will have a potential for changes to fish and wildlife resources upon which the wildlife depends.
EVIDENCE: Staff analysis contained in the Initial Study 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.
4. **FINDING:** The removal of 35 oak trees is the minimum under the circumstances of the case.
EVIDENCE: The Forest Management Plans prepared by Forest City Consulting indicate that 29 oaks would be removed to construct the Kenny residence and that 6 oaks would be removed to construct the McFarland residence, as revised. The location of the guesthouse was revised to avoid unnecessary tree removal. The Forest Management Plans state that due to the thousands of oaks that will remain on the property (among other reasons), no replacement plantings are required nor recommended. Based on the results of the field inspection conducted by Staff, which confirms the findings of the report, the revised tree removal proposal is the minimum required for the project.
EVIDENCE: Site visit, project plans, Initial Study and materials contained in the project file.
5. **FINDING:** The removal of 35 oak trees will not involve a risk of adverse environmental impacts such as soil erosion, water quality, ecological impacts, noise pollution, air movement, or wildlife habitat.
EVIDENCE: The Forest Management Plans prepared by Forest City Consulting indicate that in spite of the removal of 35 oak trees, thousands will remain on the subject parcel. The consulting forester recommends against any replacement planting for this project in order to avoid overcrowding, among other reasons.
EVIDENCE: Site visit, project plans, Initial Study and materials contained in the project file.
6. **FINDING:** The replacement of 35 oak saplings would be detrimental to the long-term health and maintenance of the remaining habitat. Therefore, replacement plantings are not recommended.
EVIDENCE: The Forest Management Plans prepared for the project by Glenn C. Flamik of Forest City Consulting found that:
 1. *“Thousands” of oaks will be retained on-site and “completely unaffected by construction.”*
 2. *“The forested areas of the property [i.e., approximately 10 acres] are covered by dense, even-aged stands of coast live oak. The majority of the trees are of the same age and difference in size is due to competition rather than age. Attrition is*

occurring as the stand ages. Ideally, this forest should be thinned of some of the smaller trees to help promote the health and vitality of the larger trees. Placing more trees in this area may, likewise, reduce stand health and vitality by adding to an over-crowded condition.”

3. *“New trees require irrigation and it may be harmful to add water to the established oaks, which are abundant. Coast live oak is susceptible to root diseases that are promoted by summer irrigation. Of course, new trees need irrigation and will likely die without it. Impacting the existing native trees with replacement trees is a risk that can be avoided while preserving a forested area.”*
4. *“The final and most important reason for not replanting is the lack of native coast live oaks from an acceptable source. Due to the potential introduction of Sudden Oak Death (SOD), no trees plants, or soil shall be brought to the site unless their source is known and they can be shown to be free from the SOD Phytophthora. Currently, there is some quarantine on the transport of species susceptible to disease, and movement within Monterey County is not regulated since we are within the quarantined area. It is not worth the risk of importing SOD for the purpose of replacing trees.”*

7. FINDING: The establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Carmel Valley Fire Protection District, Public Works Department, and 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.

DECISION

THEREFORE, it is the decision of the Planning Commission of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit grants a an Administrative Permit to allow the construction of a single-story, single-family dwelling (4,029.9 sq. ft. with an attached 732 sq. ft. garage) and grading (600 cu. yds. cut, 400 cu. yds. fill) in a Site Plan Review zoning district; an Administrative Permit for the construction of a two-story, second single-family dwelling (6,907 sq. ft. with an attached 1,332 sq. ft. garage) not exceeding the zoning density of the parcel, an Administrative Permit for a guesthouse (600 sq. ft.); and access road improvements, including grading to install a culvert (500 cu. yds. cut, 440 cu. yds. fill), toe slope improvements, and asphalt paving; a Use Permit to allow the removal of 35 oak trees (six or more inches in diameter); and a Design Approval. The project 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)**

2. This permit shall expire two years from the date of adoption unless extended by the Director of Planning and Building Inspection pursuant to Section 21.140.100 of the Coastal Implementation Plan. **(Planning and Building Inspection)**
3. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
4. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection Department)**
5. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**

Prior to the Issuance of Grading and Building Permits:

6. The applicant shall record a notice which states: "A permit (Resolution #02068) was approved by the Planning Commission for Assessor's Parcel Number 169-321-003-000 on November 13, 2002. The permit was granted subject to 52 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)**
7. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted for the project. **(Planning and Building Inspection Department)**
8. Prior to issuance of a building permits, the owners shall submit for review and approval of the Director of Planning and Building Inspection, and subsequently record, a deed restriction stating the regulations applicable to the guesthouse, which are as follow:
 - a. Only one guesthouse shall be allowed per lot.
 - b. Detached guesthouses shall be located in close proximity to the principal residence.
 - c. Guesthouses shall share the same utilities with the main residence, unless prohibited by public health requirements.
 - d. The guesthouse shall contain no kitchen or cooking facilities, including but not limited to microwave ovens, hot plates, and toaster ovens.
 - e. There shall be a maximum of 6 linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of 8 square feet of cabinet space, excluding clothes closets.
 - f. Guesthouses shall not exceed 600 square feet of livable floor area.
 - g. Guesthouses shall not be separately rented, let or leased from the main residence whether compensation be direct or indirect.
 - h. Subsequent subdivisions which divide a main residence from a guesthouse shall not be permitted.
 - i. The guesthouse shall be designed in such a manner as to be visually consistent and compatible with the main residence on site and other residences in the area.
 - j. The guesthouse height shall not exceed 15 feet nor be more than 1 story. Additions to height and placement of guesthouses over a 1-story structure, such as a garage, may be considered by Coastal

Development Permit (ZA) when intended to provide for architectural consistency and compatibility with the main residence. **(Planning and Building Inspection)**

9. All exterior lighting shall be unobtrusive, compatible 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 3 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 Department)**
10. Prior to the issuance of the Building Permits, the applicant shall pay for each building permit the Carmel Valley Traffic Mitigation Fee and the Highway 1 Fee in effect at the time of issuance of the Building Permits. **(Public Works Department)**
11. Prior to the issuance of a building permit the applicant shall comply with the provisions of the Inclusionary Housing Ordinance by either paying an in-lieu fee or by recording a deed restriction on the subject property effectuating an "owner-occupied" exemption from the provisions of the Inclusionary Housing Ordinance. **(Housing & Redevelopment Division)**
12. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. **(Water Resource Agency)**
13. 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 Agency)**
14. Prior to issuance of a building permit, submit a detailed disposal system design to the Director of Environmental Health for review and approval meeting the regulations found in Chapter 15.20 of the Monterey County Code, and Prohibitions of the Basin Plan, RWQCB. **(Environmental Health Division)**
15. Prior to issuance of a building permit, submit two copies of a soils and percolation testing report for review and approval by the Division of Environmental Health to prove that the site is suitable for the use and that it meets the standards found in Chapter 15.20 MCC (Septic Ordinance), and "Prohibitions", Central Coast Basin Plan, RWQCB. Contact the Division prior to proceeding to determine the scope of work and to oversee soil testing. The testing and report format shall be completed as per the adopted soil report policies of the Department. **(Environmental Health Division)**
16. Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction. **(Carmel Valley FPD)**
17. 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. **(Carmel Valley FPD)**

18. Fire Flow storage and hydrant system to be determined at the time of construction plan check and approved prior to issuance of a building permit. Fire Flow system is to be in place and tested prior to wood construction. **(Carmel Valley FPD)**

Prior to Final Building Inspection/Occupancy:

19. The applicant shall comply with Ordinance No. 3932 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 Agency & Planning and Building Inspection)**
20. 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. **(Carmel Valley FPD)**
21. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent. **(Carmel Valley FPD)**
22. 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. **(Carmel Valley FPD)**
23. 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 centerline of the road. If a hammerhead/T is used, the top of the "T" shall be minimum of 60 feet in length. **(Carmel Valley FPD)**
24. Each dead-end road shall have a turnaround constructed at its terminus. **(Carmel Valley FPD)**
25. 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. **(Carmel Valley FPD)**
26. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Carmel Valley FPD)**
27. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. **(Carmel Valley FPD)**
28. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Carmel Valley FPD)**
29. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Carmel Valley FPD)**

30. Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of the building permit. **(Carmel Valley FPD)**
31. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Carmel Valley FPD)**
32. Environmentally sensitive areas may require alternative fire protection, to be determined by the Reviewing Authority and the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
33. Additional fire protection or firebreaks approved by the Reviewing Authority may be required to provide reasonable fire safety. **(Carmel Valley FPD)**
34. 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.”*
(Carmel Valley FPD)
35. The building(s) shall be fully protected with an approved central station, proprietary station, or remote station automatic fire alarm system as defined by National Fire Protection Association Standard 72 - 1993 Edition. Plans and specifications for the fire alarm system must be submitted and approved by the enforcing jurisdiction prior to requesting a framing inspection. All fire alarm system inspections and acceptance testing shall be in accordance with Chapter 7 of NFPA 72 - 1993. **(Carmel Valley FPD)**
36. Where road grades exceed 8 percent, a minimum structural roadway surface thickness of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. **(Carmel Valley FPD)**
37. All new structures, and all existing structures receiving new roofing over 25 percent or more of the existing roof surface, shall require Class A roof construction. **(Carmel Valley FPD)**

Continuous Permit Conditions:

38. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. In addition, invasive species and exotics shall be removed consistent with condition no. 40, below. **(Planning and Building Inspection)**

Conditions of Approval from the Mitigated Negative Declaration

Overall Site Mitigation for both Kenny & McFarland Residences

- 39.** (*Mitigation Measure 1*) The native vegetation on the steep portion of the property shall be left intact. A Conservation and Scenic easement shall be dedicated on those portions of the property within greater than thirty percent slope in order to protect native vegetation on the steep portion of the property.

(*Monitoring Action 1*) Prior to recordation of the Conservation & Scenic Easement, the owners shall submit a map of the subject parcel showing all areas with slopes in excess of 30%, together with a meets & bounds legal description. Said map shall be prepared by a licensed surveyor and shall be subject to the approval of the Director of Planning and Building Inspection and acceptance by the Board of Supervisors. Prior to the issuance of building/grading permits, the owners shall provide proof of recordation of the approved Conservation and Scenic Easement to the Director of Planning and Building Inspection.

- 40.** (*Mitigation Measure 2*) A program shall be developed for removing, controlling, and preventing the introduction of exotics as they appear on the property, such as Poison Hemlock, Ice Plant, French Bloom, Cape Ivy, Pampas Grass, Kikuyu Grass, and Acacias.

(*Monitoring Action 2*) A qualified biologist shall prepare a weed control program. A copy of the program shall be submitted to the Monterey County Planning and Building Inspection Department, subject to the approval of the Director. The qualified biologist shall conduct site inspections annually for at least three consecutive years to verify that the weed control program is being implemented and that invasive weedy plants are eradicated from the site. Said verification shall be submitted to the Director of Planning and Building Inspection. Successful compliance with *Mitigation 2* shall be based on three consecutive years of the verified eradication of invasive plant species throughout the subject parcel.

- 41.** (*Mitigation Measure 3*) The following actions shall be taken to avoid impacts to the Carmel Valley Bush Mallows:

- A minimum of six Carmel Valley Bush Mallows shall be grown from cuttings of the existing plants to replace any plants lost or impacted due to roadway improvements.
- The existing Carmel Valley Bush Plants shall be protected with plastic screening during roadway improvement activities.

(*Monitoring Action 3*) The applicant shall contract a qualified biologist to carry out and verify successful compliance with *Mitigation 3*. Proof of said contract that includes the specifics of *Mitigation Measure 3* shall be submitted to the Monterey County Planning & Building Inspection Department, subject to the approval of the Director. Upon completion of the roadwork and installation of the culvert, the contracted biologist shall submit a report that includes evidentiary details (including photographs) of successful compliance with *Mitigation Measure 3*. Failure to achieve full success with *Mitigation Measure 3* shall require a reassessment by a qualified biologist to identify any further mitigation measures necessary to reduce on-site impacts to the Carmel Valley Bush Mallow to a less than significant level, subject to the approval of the Director of the Planning and Building Inspection Department. Successful compliance with any additional mitigation measures will then be required in the same manner as described above.

- 42.** (*Mitigation Measure 4*) A landscape plan consistent with the Monterey County regulations shall be prepared. All areas disturbed by construction and the removal of non-native invasive species shall be re-vegetated with native vegetation as appropriate to control non-native invasive species.

(*Monitoring Action 4*) At least three weeks prior to occupancy, three copies of a landscaping and restoration plan that has been certified by a qualified biologist shall be submitted to the Director of Planning and Building Inspection for approval. At a minimum, the landscape and restoration plan shall indicate the boundaries

of the scenic easement, identify types and locations of proposed plantings, outline the exotic plant control program, and identify the actions to be taken to avoid impacts to the Carmel Valley Bush Mallocks. Said plan shall be subject to the approval of the Director and shall also be installed prior to occupancy. The project will be subject to a landscape plan review fee which 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.*

Drainage Easement Mitigation

- 43.** (*Mitigation Measure 5*) The existing one-foot of soil that is to be removed in order to install the culvert shall be set aside for redressing the area of the culvert installation; the topsoil shall be placed over the sub soil. Weeds from the topsoil shall be removed by mechanical means or by biodegradable herbicide and replaced with a winter planting of native grasses. Plantings recommended after weed eradication include a half-pound of *Nassella pulcha* or *N. lepida*.

(*Monitoring Action 5*) The applicant shall contract a qualified biologist to carry out and verify successful compliance with *Mitigation 5*. Proof of said contract that includes the specifics of *Mitigation Measure 5* shall be submitted to the Monterey County Planning & Building Inspection Department, subject to the approval of the Director. Upon completion of the roadwork and installation of the culvert, the contracted biologist shall submit a report that includes evidentiary details (including photographs) of successful compliance with *Mitigation Measure 5*. Failure to achieve full success with *Mitigation Measure 5* shall require a reassessment by a qualified biologist to identify any further mitigation measures necessary to

reduce on-site impacts to a less than significant level, subject to the approval of the Director of the Planning and Building Inspection Department. Successful compliance with any additional mitigation measures will then be required in the same manner as described above.

Forest Management Mitigation

44. *(Mitigation Measure 6)*

- A. Prior to the initiation of construction activities, high visibility orange fencing shall be erected according to the detailed site map, including the Forest Management Plans prepared for Site “A” and Site “B”. A qualified arborist, biologist, or Registered Professional Forester (RPF) shall inspect the placement of the fencing to ensure the maximum protection of the retained trees prior to site and site development activities, including the introduction of heavy equipment, and monthly thereafter throughout the construction phase.
- B. The areas protected by the high visibility orange fencing shall be considered “off limits” during all stages of development and shall not be used to park cars, store materials, equipment, debris, or otherwise disturbed. The fencing shall remain in place during all phases of development.
- C. In the event that the areas protected by the fencing are breached for development activities, a qualified arborist shall be consulted to minimize further damage to forest resources.

(Monitoring Action 6) Prior to the issuance of building permits and monthly thereafter during construction, a qualified arborist, biologist, or Registered Professional Forester (RPF) shall conduct site inspections to verify that all trees located close to the construction zone, which are designated as significant or replacement trees are retained and maintained in good condition, and that the “off limits” and parking areas have been identified and are clearly visible to construction crew. The qualified arborist, biologist, or RPF shall visit the site monthly during construction to verify that the trees continue to be retained and maintained in good condition. Written verification as well as photographic evidence from a qualified arborist, biologist, or RPF shall be submitted to the Director of the Planning & Building Inspection Department. The applicant shall submit evidence of a contract with a qualified arborist, biologist, or Registered Professional Forester (RPF) for compliance with *Mitigation Measure 6* (as described by *Monitoring Action 6*) to Director of the Planning & Building Inspection Department.

Cultural Resources Mitigation

- #### **45.** *(Mitigation Measure 7)* If during the course of construction, cultural, archeological, historical, or paleontological resources are uncovered at the site (surface or subsurface resources), work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archeologist shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

(Monitoring Action 7) Prior to the issuance of building permits, the applicant shall submit the contract with a Registered Professional Archeologist to the Director of Planning and Building Inspection for approval. Said contract shall only come into effect in the event that cultural resources are uncovered during construction.

Geology and Soils Mitigations46. *(Mitigation Measure 8)*Foundations and Footings

Foundations shall contain a minimum embedment depth of twelve inches for a one story structure or eighteen inches for a two story structures into dense in-situ, native soils, bedrock or acceptable, certified, engineered fill.

Embedment depths do not take into account the loose upper top soils or any other unacceptable soils which exist at the site, e.g., any un-engineered fill, landscaping soils, etc.

Slabs-On-Grade

On-grade slabs which are to receive impervious cover, shall be placed over a moisture vapor barrier consisting of a waterproof membrane, (Moist Stop, 10 mil Visqueen, or equal) with a two inch protective sand cover. The waterproof membrane shall be placed over a capillarity break consisting of four inches of open graded rock; round and sub-round rock is recommended to prevent the puncture of the membrane. Open graded crushed aggregate may be utilized provided the vapor barrier is protected from the puncture by a cushion of filter fabric, (Mirafi 140N or equal), laid over the aggregate prior to placement of the membrane.

All care and practice required to prevent the puncture of the membrane during placement and pouring of covering slabs shall be utilized during construction. Unless otherwise required for structural purposes, all slabs shall be reinforced with a minimum of No. 4, Grade 40, deformed steel reinforcing bars, 24 inches o.c., each way, to prevent separation and displacement in cases of cracking. Reinforcing shall be continuous through joints, utilizing smooth dowels with one end greased to allow longitudinal movement.

(Monitoring Action 8) Prior to occupancy, the applicant shall submit to the Director of Planning & Building Inspection Department wet-seal stamped certification that all site work was inspected and satisfactorily passed testing during performance by Grice Engineering and Geology, Inc.

47. *(Mitigation Measure 9)*Surface Drainage

A. All concentrated roof drainage shall be released onto non-erodible surface areas, or splash blocks, sufficient in size (12"x16" minimum) to prevent local scour, and shall be consistent with Mitigation Measure 14.

B. General concentrated surface drainage shall be retained at low velocity by slope, sod, or other energy reducing features sufficient to prevent erosion, with concentrated over slope drainage carried in lined channels, flumes, pipe, or other erosion preventing installations, and shall be consistent with Mitigation Measure 14.

Cut and Fill Slopes

Cut and fill slope ratios of 2 horizontal to 1 vertical shall be satisfactory, provided they are landscaped with soil retaining ground covers and are protected against free flowing overside drainage.

(Monitoring Action 9) Prior to occupancy, the applicant shall submit to the Director of Planning & Building Inspection Department wet-seal stamped certification from a registered civil engineer, or architect, that the Mitigation Measure 9 has been implemented as designed and represented on plans approved by the Monterey County Planning & Building Inspection Department.

48. *(Mitigation Measure 10)*General Site Preparation

For those items not directly addressed, it is recommended that all earthwork be performed in accordance with the following, as well as the Recommended Grading Specifications as found in Appendix B of the Grice Engineering and Geology, Inc. Technical Reports. These specifications address site preparation, general fill, structural backfill, compaction, moisture, subdrain, depth of key, testing, and deleterious materials.

Inspection of Work

It is recommended that all site work be inspected and tested during performance by Grice Engineering and Geology, Inc., establish compliance with the mitigation measures. A minimum of 48 hours (two working days) notification is required prior to commencement of works so that scheduling for testing and inspections can be made.

(Monitoring Action 10) Prior to occupancy, the applicant shall submit to the Director of Planning & Building Inspection Department wet-seal stamped certification that all site work was inspected and satisfactorily passed testing during performance by Grice Engineering and Geology, Inc.

Mitigation and Monitoring Requirements for the Kenny Residence

49. *(Mitigation Measure 11)*

- A. The site soils are very loose to an approximate depth of three feet in the area of development. As such it is recommended, as a minimum, that the upper three feet of soils be processed as certified engineered fill in all areas of development. The extent of the processing shall include the building envelope, any pavements adjacent to structures and auxiliary structures.
- B. During the development of the site, the soils are to be removed and the base of the excavation be inspected by a qualified Soils Engineer or their Representative prior to any further work. Further recommendations will be made at that time if necessary. In areas of development where trees are removed, it is a requirement that the voids left by the trees and any other loose soils be reprocessed as certified engineered fill.
- C. Limits of excavation shall extend to the boundary of any fills placed or to a limit defined by a line, sloping at forty-five degrees, away from any building envelope plus five feet, which ever is greater. For pavement areas the limit shall extend a minimum of five feet beyond the edge of pavement.
- D. Since the structure is set within an oak forest, trees (which are to remain) may exist within the above stated limits of processing. In these areas, a qualified Soils-Engineer or their Representative shall address the limits of reprocessing. As a minimum, the reprocessing effort shall extend two feet beyond the building envelope.
- E. Any further site activity, especially grading and foundation excavations, shall be under the direction of a qualified Soils Engineer or their Representative. Should the spectrum of development change, Grice Engineering and Geology, Inc. shall be notified so that additional recommendations can be made, if necessary.

(Monitoring Action 11) Prior to the issuance of grading permits, the applicant shall submit to the Director of Planning, Building and Inspection Department the grading plan, which has been certified and approved by a qualified engineering geologist. Prior to occupancy, the owners shall submit to the Director of Planning & Building Inspection wet-seal stamped certification from Grice Engineering that the above listed Mitigation Measures were satisfactorily performed during construction; and if not, any remaining Mitigation Measures necessary to reduce potential seismic impacts to a less than significant level.

Mitigation and Monitoring Requirements for the McFarland Residence

50. *(Mitigation Measure 12)*

- A. The sites surface soils are very loose for the approximate minimum depth of two feet. Therefore, in all areas of development, at a minimum, the upper four feet of soils shall be processed as engineered fill. The exact depth shall be determined in the field during grading by a Qualified Soils Engineer or their Representative.
- B. During development, the required depth of soils shall be completely removed and the base of the excavation is to be inspected by a qualified Soils Engineer or such representative prior to any further work. At this time, further recommendations will be made, if necessary.
- C. Upon completion of the above-required inspection, the base of the excavation shall be prepared as engineered fill to a depth of eight inches prior to further fill placement.
- D. In areas where planned excavation will lower the final grade below the above requirements, only the upper eight inches of soils shall be processed as engineered fill.
- E. Any further site activity, especially grading and foundation excavations, shall be under the direction of a qualified Soils Engineer or their Representative. Should the spectrum of development change, Grice Engineering and Geology, Inc. shall be notified so that additional recommendations can be made, if necessary.

(Monitoring Action 12) Prior to the issuance of grading permits, the applicant shall submit to the Director of Planning, Building and Inspection Department the grading plan, which has been certified and approved by a qualified engineering geologist. Prior to occupancy, the owners shall submit to the Director of Planning & Building Inspection wet-seal stamped certification from Grice Engineering that the above listed Mitigation Measures were satisfactorily performed during construction; and if not, any remaining Mitigation Measures necessary to reduce potential seismic impacts to a less than significant level.

51. *(Mitigation Measure 13)*

- A. Site development shall prevent superficial drainage from flowing down the slopes south and east of the proposed residential development. Roof area and any concentrated drainage, shall be collected and transported by a lined flume, gutter, or pipe, to the drainage way of Berwick Canyon east of the development.
- B. General open areas, generating un-concentrated surface drainage shall provide a structure to retain runoff at low velocity by slope, sod, or other energy reducing features sufficient to prevent erosion.
- C. Erosion control and runoff measures shall be applied during construction. Such features shall be inspected daily and maintained during winter periods.
- D. The following general erosion control planning measures shall also be incorporated into the proposed project:
 - The proposed project shall be designed to fit the topographic and hydrologic features of the site. The site design features and techniques shall minimize the grading of and the grading near steep slopes.
 - The project shall be designed to maintain runoff rates at or below pre-development levels. Runoff from post-development structures shall be retained on-site. Preferably runoff shall be filtered back into the soil by means of percolation trenches intended for storm runoff only. Storm runoff shall never be directed toward septic tank system leach fields.
 - If retention is not possible, post-development generated runoff shall be detained on-site and released in a controlled fashion. Runoff flows shall be directed into pipes or lined ditches and then onto an energy dissipater to remove sediment prior to discharging the runoff into streams and drainage ways. De-silting the runoff may take the form of stilling basins, gravel berms, reforested vegetations, screens, et cetera.
 - During construction, cut and fill material shall not be stored in areas where it may wash into streams or drainage ways. All culverts and drainage facilities shall be kept free of silt and debris.

Emergency erosion control measures such as straw mulch, plastic sheeting, and sandbags shall be kept on-site and installed at the end of each day, if necessary.

Exposed soils shall be protected and re-vegetated. Appropriate grass/legume seed mixes and/or straw mulch shall be used for temporary cover. Permanent vegetations shall be planted and may include native drought tolerant plants.

(Monitoring Action 13) Prior to occupancy, the applicant shall submit to the Director of Planning & Building Inspection Department certification from a registered civil engineer or architect that the *Mitigation Measure 13* has been implemented as designed and represented on plans approved by the Monterey County Planning & Building Inspection Department.

Drainage Plan Requirement for Entire Project:

52. *(Mitigation Measure 14)* Prior to the issuance of grading or building permits, a drainage plan shall be prepared by a registered civil engineer or architect addressing on-site and off-site impacts, to include retention/percolation facilities to mitigate the impact of impervious surface storm water runoff. Necessary improvements shall be constructed in accordance with approved plans.

(Monitoring Action 14)

The MCWRA shall provide notification to the Planning & Building Inspection Department that *Mitigation Measure 14* has been satisfactorily met prior to the issuance of building/grading permits.

PASSED AND ADOPTED this 13th day of November, 2002 by the following vote:

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

Original Signed By:

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 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 and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.