

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

RESOLUTION NO. 02070

A.P. # 007-463-009-000

FINDINGS AND

DECISION

In the matter of the application of
Tom Harrow (PLN010485)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for the removal of more than three protected trees (8 Oaks including 6 existing trees and 2 that have been removed) and grading (200 cubic yards); and Design Approval for a 3,966 sq. ft. single family dwelling, located at 3101 Hermitage Road, Pebble Beach, east of Bird Rock Road, Del Monte Forest area, non-coastal zone, came on regularly for hearing before the Planning Commission on November 13, 2002.

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

FINDINGS OF FACT

1. **FINDING:** The project proposed in this application consists of a Use Permit to allow for the removal of more than 3 protected trees (8 oaks); and Design Approval of a 3,966 sq. ft. single family dwelling (PLN010485). As conditioned, the proposed project conforms to the policies, requirements and standards of the General Plan, Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 3101 Hermitage Road, Pebble Beach (Assessor's Parcel Number 007-463-009) and is zoned MDR/B-6-D. The proposed project, as conditioned, complies with all rules and regulations pertaining to zoning, subdivision, and any other applicable provisions of Title 21.

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

- a) Monterey County General Plan;
- b) Greater Monterey Peninsula Area Plan;
- c) Chapter 21.12 of the Monterey County Zoning Ordinance regulations for Medium Density Residential Districts;
- d) Chapter 21.42 of the Monterey County Zoning Ordinance regulations for Building Site Districts; and
- e) Chapter 21.44 of the Monterey County Zoning Ordinance regulations for Design Control Districts.

EVIDENCE: The project site is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, PBCSD Fire Department and PBCSD Engineering Department. There has been no indication from these agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval, where applicable.

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

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Planning Commission.

- EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.
- EVIDENCE:** The on-site inspection by the project planner on September 23, 2002.
2. **FINDING:** The proposed project is consistent with Section 21.66.050 of the Monterey County Zoning Ordinance regarding development standards for Archaeological Resource Areas.
- EVIDENCE:** In accordance with section 21.66.050.C, an archaeological reconnaissance was prepared by Archeological Consulting on December 6, 2001. The report concluded that the proposed project would not adversely impact any cultural or archaeological resources. A condition requires that construction be halted within 50 feet if any archeological resources are discovered during construction.
3. **FINDING:** The removal of eight (8) protected Coast Live Oaks trees is the minimum required under the circumstances of this project and will not involve a risk of adverse environmental impacts consistent with the requirements of section 21.64.260 of the Monterey County Zoning Ordinance (Title 21) dealing with the removal of protected trees.
- EVIDENCE:** In accordance with Section 26.64.260 of the Zoning Ordinance, a Forest Management Plan dated November 4, 2002 and November 11, 2002 was prepared by Glenn C. Flamik, registered professional forester. The report and update confirm that the proposed tree removal is the minimum required for the project. Consistent with the requirements of the zoning ordinance, replacement planting for removed oaks will be 1:1.
- EVIDENCE:** Forest Management Plan by Glenn C. Flamik dated November 4, 2002 and November 11, 2002 contained in the project file.
- EVIDENCE:** Staff review of plans and specifications contained in the project file PLN010485.
4. **FINDING:** The proposed project, including all permits and approvals, is categorically exempt under Section 15303 (New Construction or conversion of Small Structures) and Section 15304 (Minor Alterations of Land) of the California Environmental Quality Act (CEQA).
- EVIDENCE:** Application materials and reports contained in the project file.
5. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.
- EVIDENCE:** The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, PBCSD Fire Department and PBCSD Engineering Department. The respective agencies 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 said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. The project proposed in this application consists of a Use Permit to allow for the removal of more than 3 protected trees (8 oaks); and Design Approval for a 3,966 sq. ft. single family dwelling (PLN010485), subject to the following terms and conditions: Neither the use 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. The applicant shall obtain a building permit from the Building Inspection Division. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

3. The applicant shall record a notice which states: "A permit (Resolution 02070) was approved by the Planning Commission for Assessor's Parcel Number 007-463-009-000 on November 13, 2002. The permit was granted subject to 27 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 a building permit. **(Planning and Building Inspection)**
4. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Glenn C. Flamik (dated November 4, 2002 and November 11, 2002) is on record in the Monterey County Planning and Building Inspection Department Library. All tree removals on the parcel shall 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 a building permit. **(Planning and Building Inspection)**
5. 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)**
6. 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 Resources Agency)**
7. 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)**
8. 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 recirculation 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)**
9. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site and off-site impacts, and necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
10. A chain link tree protection fence at least 5 feet high shall be installed as shown on Sheet C-1 of the plans submitted on November 12, 2002. The location of the fence, once installed, shall be inspected by a qualified arborist or forester to determine consistency with the approved plans and to ensure maximum protection of retained trees. This fence shall remain in place until after final inspection. Areas beyond the fence shall not be used to park cars, store material, pile debris or place equipment. The construction contract shall require that, in the event unforeseen circumstances require any work in the area beyond the tree protection fencing that could result in harm to retained trees, no such work shall take place unless a qualified arborist or forester is consulted to develop measures to minimize damage to protected trees and such measures have been reviewed and approved by the Director of the Planning and Building Inspection Departments. **(Planning and Building Inspection)**
11. The applicant shall provide evidence to the Director of Planning and Building Inspection Construction showing that contracts for the project require that all contractors and subcontractors performing work on the project be given a copy of the forest management plan (including updates) and conditions of approval and agree to implement the provisions of the forest management plan and conditions of approval. In addition, the contracts shall identify a County approved arborist or forester to be present or consulted under circumstances where the provisions of the forest management plan or conditions of approval require that the arborist or forester be present or consulted. **(Planning and Building Inspection)**
12. The applicant shall provide evidence (in the form of a contract) to the Director of Planning and Building Inspection showing that a qualified arborist or forester has been retained to monitor compliance with the recommendations of the Forest Management Plan by Glenn C. Flamik dated November 4, 2002 and November 11, 2002. **(Planning and Building Inspection)**

Prior to Final Inspection:

13. If archaeological resources or human remains are discovered during construction, work shall be halted within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented. **(Planning and Building Inspection)**
14. Tree removals shall be in accordance with Sheet C-1 of the plans submitted on November 13, 2002 and the Forest Management Plan by Glenn C. Flamik dated November 4, 2002 and November 11, 2002. No protected trees may be removed prior to the issuance of a building permit. **(Planning and Building Inspection)**
15. Trenching shall occur as far from retained oak trees as possible. If it becomes necessary to trench or excavate within the drip line of a protected oak tree, a qualified arborist or forester shall be consulted to determine if cutting a root will significantly affect the stability or vitality of the tree. If the arborist or forester determines that

cutting the roots will significantly affect the stability or vitality of the tree, the roots will either be bridged over or tunneled under if the arborist determines it is feasible to do so. In the event that it is not possible to do so, the arborist or forester shall determine whether there are other feasible measures to protect the tree and such measures shall be implemented. **(Planning and Building Inspection)**

16. The applicant shall plant replacement trees in accordance with the Sheet G-1 of the plans submitted on November 13, 2002 and the recommendations contained in the Forest Management Plan by Glenn C. Flamik dated November 4, 2002 and November 11, 2002 (a minimum of 8 replacement trees are required). Prior to planting the trees, the applicant shall submit a landscape plan for review and approval by the Director of Planning and Building Inspection showing the location, species and sizes of the replacement trees. The applicant shall provide the Director of Planning and Building Inspection with written certification by a qualified arborist that replacement planting has been performed in accordance with these requirements. **(Planning and Building Inspection)**
17. The retaining wall behind the house shall be constructed with a subsurface drain that will not allow water to pond at the surface nor to collect behind the wall in accordance with Sheet G-2 in the plans submitted on November 12, 2002 **(Planning and Building Inspection)**
18. Any water storage tank(s) shall be located completely inside of the structure in accordance with the approved plans (Sheet A5). Design Approval shall be required to locate a water tank outdoors. **(Planning and Building Inspection)**

Continuous Permit Conditions:

19. If any required replacement tree fails to establish within the five year period following the final inspection, the property owner shall immediately replace that tree in accordance with the tree replacement recommendations contained in the Forest Management Plan by Glenn C. Flamik dated November 4, 2002 and November 11, 2002. If any newly planted replacement tree fails to establish within a five year period following the date of its replanting, the property owner shall immediately replant that tree. In addition, the property owner shall provide written certification to the Director of Planning and Building Inspection from a qualified arborist or forester that the replanted tree has survived for a continuous five year period following the date of replanting. **(Planning and Building Inspection)**
20. All landscaped areas and replanted trees 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)**
21. Construction activities shall be limited to the hours between 8:00 a.m. and 6:00 p.m. **(Planning and Building Inspection)**
22. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. **(Fire District)**
23. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. **(Fire District)**
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." **(Fire District)**

- 25. The source for the residential sprinkler system shall be off of the Cal-American water system. (Fire District).
- 26. The owner/Contractor shall pay the required fees and obtain a sewer connection permit from the PBCDS. **(PBCSD)**
- 27. The sewer lateral and connection shall be inspected and approved by the PBCDS. **(PBCSD)**

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

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

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