

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

RESOLUTION NO. 03029

A. P. # 169-091-030-000

FINDINGS AND DECISION

In the matter of the application of
Carol Frederick (PLN020404)

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 9945 Eddy Road, Carmel Valley area, Carmel Valley Master Plan, came on regularly for hearing before the Planning Commission on May 28, 2003.

WHEREAS: Said proposal includes:

- 1) Administrative Permit and Design Approval for the construction of a new 5,084 square foot two-story single family dwelling with attached garage and a new 770 square foot storage building and associated grading (670 cubic yards cut and 510 cubic yards fill);
- 2) Use Permit for the removal of 22 Oak Trees; and
- 3) Use Permit for development on slopes in excess of 30%.

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

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies of the Monterey County Zoning Ordinance (Title 21), and Carmel Valley Master Plan which designates this area as appropriate for residential development.
EVIDENCE: (a) PBI staff have reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Valley Master Plan. PBI staff have reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 21) and have determined that the project is consistent with the applicable zoning regulations. Staff notes are provided in Project File PLN020404.
(b) The project planner conducted an on-site inspection on October 17, 2002, November 14, 2002, and January 23, 2003 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in Project File PLN020404.
(c) The project for the construction of a single family home is an allowed use in accordance with Section 21.14.030; the removal of 22 Oak trees greater than 6-inches in diameter is a conditional use in accordance with Section 20.12.050; and development on slopes in excess of 30% is a conditional use in accordance with Section 21.64.260.
(d) The parcel is zoned Low Density Residential, 1 unit/acre, Design Control District, Site Review District, Residential Allocation Zoning ("LDR/1-D-S, RAZ)." The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 21.14.030. The project proposes to construct the first residential unit on the parcel, and is therefore exempt from the residential allocation provisions.

- (e) **LAND USE ADVISORY COMMITTEE:** The Carmel Valley Land Use Advisory Committee recommended denial of the project by a vote of 5 to 1. The negative votes were cast because of concerns with the size of the house in relation to the surrounding neighborhood. LUAC meeting minutes dated January 27, 2003.
- (f) 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 Project File PLN020404.

2. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance, with the exception of Section 21.64.230.C of the Zoning Ordinance and Section 16.08.040 of the Grading Ordinance. Approval of this permit remedies and removes the violation, subject to Condition Nos. 4 and 17.

EVIDENCE: A Code Enforcement Case (CE030004) has been initiated. The subject of the Code Enforcement investigation is unauthorized grading on slopes greater than 30%. Measures to correct the violation are included in the project proposal and conditions of approval. Full restoration of the unpermitted grading is not feasible because a water well is located at the end of the road and the Department of Environmental Health requires permanent access to the well. The project includes measures to stabilize loose soils resulting from the unpermitted grading. See Condition Nos. 4 and 17.

EVIDENCE: Staff has determined, and the Code Enforcement Grading Inspector has concurred that full restoration of the unpermitted road would result in extensive grading and would create adverse impacts to the trees located adjacent to the road.

3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the 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 improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) The project was reviewed by Planning and Building Inspection, Public Works, Water Resources Agency, and Environmental Health. The respective departments and 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

(b) Technical reports have been provided by a consulting geotechnical engineer with recommended conditions and modifications that provide additional assurances regarding project safety. "Geotechnical and Geoseismic Report" prepared by Grice Engineering and Geology, Salinas, CA, July, 2002. Report is in Project File PLN020404.

4. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Pebble Beach Community Services District. Conditions recommended have been incorporated.

(b) Technical reports by outside forestry and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concur. "Geotechnical and Geoseismic Report" prepared by Grice Engineering and Geology, Salinas, CA, July, 2002. "Forest Management Plan" Forest City Consulting, September, 2002. Reports are in Project File PLN020404.

- (c) Staff conducted an on-site visit on November 14, 2002 to verify that the site is suitable for this use.
 - (d) Necessary public facilities are available and will be provided.
- 5. **FINDING: CEQA** - The project is exempt from environmental review.
EVIDENCE: (a) CEQA Guidelines Section 15303 categorically exempts single family dwellings.
(b) No adverse environmental effects were identified during staff review of the development application during staff's site visit on November 14, 2002.
- 6. **FINDING: SLOPE WAIVER-NO ALTERNATE SITE:-** The request for the proposed development to be located on 30 percent slope is consistent with Section 21.64.230E.1 of Title 21 since no other alternative exists which would allow development to occur on slopes of less than 30 percent.
EVIDENCE: The site plan prepared by Agricultural Surveying which shows that the majority of the parcel accessible from Eddy Road is over 30 percent in slope.
EVIDENCE: The site plan prepared by Agricultural Surveying shows that the location of the proposed residence is sloped less than 30%.
EVIDENCE: The Planner's inspection of the project site confirmed that the location of the proposed residence is sloped less than 30%, and that alternative location for the residence would require additional grading on slopes 30% and greater.
EVIDENCE: The project minimizes grading on slopes 30% and greater by locating the residence on a portion of the parcel with a slope less than 30% and that is directly accessible from Eddy Road. The project will utilize an existing road and landing as a location for the accessory building.
- 7. **FINDING: SLOPE WAIVER-RESOURCES** - The request for the proposed development to be located on 30 percent slope is consistent with Section 21.64.230E.1 of the Title 21 Plan since the proposed development better achieves the resource protection objectives and policies of Title 21 and the Carmel Valley Master Plan.
EVIDENCE: The Forest Management Plan prepared for the project by Forest City Consulting contained in the file, concluded that the location of the proposed development minimizes the required tree removal.
EVIDENCE: The extent of development on slopes 30% and greater is the minimum amount required in lieu of minimizing tree removal and locating the structure the minimum distance from the roadway.
EVIDENCE: Project plans contained in File No. PLN020404.
- 8. **FINDING: TREE REMOVAL** – The subject project minimizes tree removal in accordance with the applicable goals and policies of Title 21 and the Carmel Valley Master Plan.
EVIDENCE: Forest Management Plan prepared by Forest City Consulting, September 27, 2002, concludes that the proposed tree removal is the minimum necessary. Report is in Project File PLN020404.
EVIDENCE: Forest Management Plan prepared by Forest City Consulting, September 27, 2002, notes that the entire parcel is heavily forested. Report is in Project File PLN020404.
- 9. **FINDING: APPEALABILITY** - The project is appealable to the Board of Supervisors.
EVIDENCE: Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21).

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 subject Combined Development Permit (PLN020404) consists of an Administrative Permit for construction of a new 5,084 square foot two-story single family dwelling with attached garage and associated grading 670 cubic yards cut/510 cubic yards fill); Administrative Permit for the construction of a new accessory building; Use Permit for the removal of 23 Oak trees; Use Permit for development on slopes in excess of 30%, and Design Approval. The subject parcel is located at 9945 Eddy Road, Carmel Valley, Carmel Valley Master Plan Area. The proposed project is in accordance with County ordinances and land use regulations, 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)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution 020404) was approved by the Planning Commission for Assessor's Parcel Number 169-091-030-000 on May 28, 2003. The permit was granted subject to **33** 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)**
3. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan (Forest City Consulting, September 27, 2002) has been prepared for this parcel, and is on record in the Monterey County Planning and Building Inspection Department Library. All tree removal and planting 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)**
4. A notice shall be placed on the final plans and shall be recorded with the Monterey County Recorder which states: "All roads and/or driveways existing on this parcel shall not be modified in size or form from that shown on the project plans, dated March 19, 2003, without required County permits or authorization as applicable. Any modification shall be considered a violation of this permit (PLN020404) and subject to permit revocation." **(Planning and Building Inspection)**
5. The final project plans shall include a note which states: "Underground water and electrical utility lines between the main residence and the storage building shall be located within the existing dirt road." **(Planning and Building Inspection)**
6. The applicant shall pay the Carmel Valley Road Traffic Impact Fees pursuant to Board of Supervisors Resolution No. 95-140, adopted September 12, 1995. **(Public Works)**
7. 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. 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. **(Planning and Building Inspection)**

8. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
9. The applicant shall submit plans for the proposed fence to the Department of Planning and Building Inspection for review. The fence shall be designed to be visually compatible with the character of the surrounding area. **(Planning and Building Inspection)**
10. 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. **(Fire District)**
11. The applicant shall incorporate the recommendations from the "Geotechnical and Geoseismic Report" prepared by Grice Engineering and Geology, Salinas, CA, July, 2002, into the building permit plans. **(Planning and Building Inspection)**
12. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by installing and maintaining protective fencing around the drip line of said trees, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
13. Prior to 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 stormwater runoff. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
14. 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)**
15. 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)**
16. 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)**

17. Prior to issuance of a building permit, submit a detailed wastewater 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)**

Prior to Final Building Inspection/Occupancy:

18. Certification that stormwater retention facility has been constructed in accordance with approved plans shall be provided to the County Water Resources Agency by a registered civil engineer or licensed contractor who constructed the facility. **(Water Resources Agency)**
19. All existing cut and/or fill slopes and those exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
20. 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)**
21. 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. **(Fire District)**
22. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent. **(Fire District)**
23. 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. **(Fire District)**
24. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Fire District)**
25. 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. **(Fire District)**
26. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Fire District)**
27. 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. **(Fire District)**
28. 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. **(Fire District)**

29. 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. **(Fire District)**

Continuous Permit Conditions:

30. If during the course of construction activity on the subject property, cultural, archaeological, historical, 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 it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
31. 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)**
32. The storage building shall be used for storage of private vehicles and materials only, and shall not be used to house livestock or pets. **(Planning and Building Inspection)**
33. 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)**

PASSED AND ADOPTED this 28th day of May, 2003 by the following vote:

AYES: Errea, Parsons, Hawkins, Padilla, Brennan, Sanchez, Diehl, Gonzalves, Rochester, Wilmot
NOES: None
ABSENT: None

Original Signed By:
JEFF MAIN, 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.