

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

RESOLUTION NO. 03050

A.P. # 418-281-016-000

**FINDINGS AND
DECISION**

In the matter of the application of
Craig B. and Barbara A. Vienna (PLN030166)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for the removal of sixteen oak trees (one of landmark status) associated with the construction of a 3,256 square foot single family dwelling with 879 square foot covered patio, 980 square foot detached RV/boat garage, and associated grading (approximately 45 cubic yards cut, 45 cubic yards fill), located at 21430 Parrot Ranch Road, Carmel Valley, south and east of the intersection of Parrot Ranch Road and Cachagua Road, Cachagua Area Plan, came on regularly for hearing before the Planning Commission on August 13, 2003.

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

FINDINGS OF FACT

1. **FINDING:** The subject Use Permit (File PLN030166), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, Cachagua Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 21430 Parrot Ranch Road, Carmel Valley (Assessor's Parcel Number 418-281-016-000). The parcel is zoned "RC/20" or Resource Conservation, one Unit per 20 acres. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any 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 the General Plan and the Cachagua Area Plan.
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, Cachagua Volunteer Fire Company, and Cachagua Land Use Advisory Committee. There has been no indication from these agencies that the site is not suitable for the proposed development.
EVIDENCE: The proposed project is consistent with development standards for single family dwellings and accessory structures in Resource Conservation Districts, and regulations for the Preservation of Oaks and Other Protected Trees, pursuant to Sections 21.36 and 21.64.260 of the Monterey County Zoning Ordinance
EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.
EVIDENCE: On-site inspections by the project planner on April 4, 2003 and July 10, 2003 to verify that the proposed project complies with the Cachagua Area Plan and Title 21, Monterey County Zoning Ordinance.
EVIDENCE: The Cachagua Land Use Advisory Committee recommended approval of the project 4 to 0 on May 28, 2003.
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 project file PLN030166.

2. **FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE: Section 15304 of the Monterey County CEQA Guidelines (Minor Alterations to Land) categorically exempts the proposed development from environmental review. An analysis has been prepared by staff to determine if an Initial Study is required for this project. On the basis of this initial evaluation (Exhibit "G"), staff determined that there would be no adverse environmental impacts associated with this project.

EVIDENCE: A Forest Management Plan (Forest City Consulting, May 6, 2003) was prepared by a qualified forester pursuant to Section 21.64.260.D of the Monterey County Code, to assess the effect of the tree removal on soil erosion, water quality, ecological impacts, noise pollution, air movement and wildlife habitat. The report concluded that the proposed tree removal would not adversely impact the environmental resources noted above. Recommendations of the plan have been incorporated into Conditions of Approval 5, 6, 10 and 12.
3. **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 project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, Cachagua Volunteer Fire Company, 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.

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 project file PLN030166.
4. **FINDING:** The tree removal is the minimum required under the circumstances of the case; and the removal will not involve a risk of adverse environmental impacts such as: soil erosion; water quality; ecological impacts; noise pollution; air movement; and wildlife habitat.

EVIDENCE: While a cleared building pad presently exists, it is not of sufficient size to accommodate both structures proposed in this application. Expanding the existing building pad is not a preferred option because (1) it would require more grading than is presently proposed; (2) would necessitate development on slopes exceeding 30%; (3) is constrained by setback requirements regulating both structures and septic systems; and (4) would still require the removal of protected trees. By creating a second building site for the proposed residence, and placing the RV/boat garage on the existing pad, environmental impacts will be reduced to tree removal alone. There is nearly continuous canopy covering the parcel, with small trees existing in the understory and in gaps created by the loss of older trees. Removal of trees is unavoidable given these circumstances. The location of the second building pad minimizes tree removal by locating close to existing roads and trails and in a near level location possessing relatively few trees. The presence of a large decaying oak on the proposed building site prevented the area from being densely populated by other trees due to its immense canopy spread. Fifteen trees will be removed for the construction of the residence and attached garage. One additional tree will be removed to provide greater protection to three other trees in the driveway area. No tree removal is needed for the RV/boat garage, water tank, septic tank, leach fields or road

improvements. The one landmark oak proposed for removal demonstrates large amounts of decay and poses a hazard to life and property due to structural instability.

EVIDENCE: A Forest Management Plan (FMP) was prepared by a qualified forester pursuant to Section 21.64.260.D of the Monterey County Code, to assess the effect of the tree removal on soil erosion, water quality, ecological impacts, noise pollution, air movement and wildlife habitat (Forest City Consulting, May 6, 2003; amended July 15, 2003). The FMP concluded that the proposed tree removal would not adversely impact the environmental resources noted above, and that the tree removal was the minimum required for the circumstances. Replacement of removed trees was not recommended due to the dense forest cover existing on the parcel. The FMP indicated that replacement trees will grow slower than expected and have a difficult time becoming established. Furthermore, the irrigation required to establish replacement trees may impact the health of the remaining trees, while simultaneously elevating the potential for catastrophic wildfire resulting from increased forest density. Tree protection measures for the preservation of the remaining forest have been recommended by the consulting forester and have been incorporated into Conditions of Approval 5, 6, 10 and 12.

EVIDENCE: On-site inspections by the project planner on April 4, 2003 and July 10, 2003.

5. **FINDING:** The project is appealable to the Monterey County Board of Supervisors.

EVIDENCE: Section 21.80.040.D 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 Use Permit consists of a Use Permit for the removal of sixteen oak trees (one of landmark status) associated with the construction of a 3,256 square foot single family dwelling with 879 square foot covered patio, 980 square foot detached RV/boat garage, and associated grading (approximately 45 cubic yards cut, 45 cubic yards fill). The project is located at 21430 Parrot Ranch Road, Carmel Valley (Assessor's Parcel Number 418-281-016-000), south and east of the intersection of Parrot Ranch Road and Cachagua Road, Cachagua Area Plan. A guesthouse is not a part of this project. 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 03050) was approved by the Planning Commission for Assessor's Parcel Number 418-281-016-000 on August 13, 2003. The permit was granted subject to 14 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. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 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)**
4. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
5. Prior to the issuance of building or grading permit, tree protection fencing shall be erected. Chain link or orange high-visibility fencing shall be installed in the location identified in the approved plans. The location of the fence, once installed, shall be inspected by the recommending forester to determine consistency with the approved plan. Written confirmation of this installation shall be provided by the recommending forester to the Planning and Building Inspection Department. This fence shall remain in place during all phases of development. Areas beyond the fence shall not be used to park cars, store material, pile debris or place equipment. **(Planning and Building Inspection)**
6. Prior to the issuance of building or grading permits, all construction contracts for the project shall include a provision requiring that all contractors and subcontractors performing work on this project be given a copy of the forest management plan and conditions of approval and agree to implement the provisions of the forest management plan and conditions of approval. In addition, the contracts shall also identify a County of Monterey 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. Prior to issuance of building and grading permits, a copy of these contracts shall be supplied to the Planning and Building inspection department. **(Planning and Building Inspection)**
7. Prior to issuance of a building permit, the applicant shall pay all Carmel Valley Master Plan Traffic Mitigation Fees. **(Public Works).**

Prior to Final Building Inspection/Occupancy:

8. 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)**
9. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey

County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**

- 10. Prior to final inspection, a post-construction evaluation shall be performed by a qualified arborist or forester to certify that the work was completed in accordance with the forest management plan submitted with the project application. This report shall record, assess and recommend mitigation measures for impacts not anticipated or permitted in the original forest management plan. **(Planning and Building Inspection)**

Continuous Permit Conditions:

- 11. 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)**
- 12. A qualified arborist or forester should be on site during all trenching and excavation within the drip line of all retained oak trees. Trenching shall occur as far from retained trees as possible. If it becomes necessary to cut roots within the drip line of an oak, the qualified arborist or forester shall be consulted to determine if cutting the roots will significantly affect the stability or vitality of the tree. If the arborist or forester determines that cutting 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)**
- 13. 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)**
- 14. 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)**

PASSED AND ADOPTED this 13th day of August, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, 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. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.