

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

RESOLUTION NO. 03075

A.P. # 243-113-007-000

In the matter of the request of
Francis L. Whisler AIA (PLN010528)

FINDINGS & DECISIONS

for a Combined Development Permit pursuant to regulations established by local ordinance and state law, to allow for a Coastal Development Permit for a new single family dwelling with a main floor (3,369 sq. ft.), a partial second floor (897 sq. ft.), a partial basement (632 sq. ft.), and an attached three-car garage (709 sq. ft.); a Coastal Administrative Permit for a detached 425 sq. ft. guest house with attached carport and grading (approx 900 cu. yds. cut and 250 cu. yds. fill); a Coastal Development Permit to allow the removal of 21 Monterey pines exceeding 12 inches in diameter and approximately 24 coast live oaks less than six inches in diameter; a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; and Design Review. The property is located at 61 Riley Ranch Road (Lot #7), Carmel, Carmel area, Coastal Zone. came on regularly for hearing before the Planning Commission on November 12, 2003.

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

FINDINGS OF FACT

1. FINDING: *PLAN, POLICY, AND ZONING CONSISTENCY FINDING:* The Project, as conditioned is consistent with the Carmel Area Land Use Plan, the Regulations for Development in the Carmel Area Land Use Plan/Chapter 20.146, and the Zoning Ordinance (Title 20) which designate 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 Area Land Use Plan, the Regulations for Development in the Carmel Area Land Use Plan/Chapter 20.146. PBI staff have reviewed the project as contained in the application and accompanying materials for conformity with the Zoning Ordinance (Title 20) and have determined that the project is consistent with the Carmel Area Land Use Plan which designates this area as appropriate for residential development within the Special Treatment Overlay for the Point Lobos Ranch (Section 4.4.3.F.4). Staff notes are provided in PBI File No. PLN010528.

(b) Project planner conducted an on-site inspection on November 14, 2002 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in PBI File No. PLN010528.

(c) The use/project, which is a single family home, is a conditional use allowed in accordance with Section 20.22.060.L. of Title 20

(d) The parcel is zoned Visitor Serving Commercial/Special Treatment Area in the Coastal Zone ("VSC/SPTR [CZ]"). Project Review Sheet, Attachment A, indicates compliance with Site Development Standards in accordance with Section 20.22.070 of Title 20.

(e) The proposal is consistent with the County's approval given to the Riley Ranch Subdivision (Tract 1345 – Planning File SB94001).

(f) Applicant has revised his original plans and re-sited the home on the parcel to minimize tree removal on this heavily wooded lot in accord with advice from the Land Use Advisory Committee.

(g) The Carmel Area LUAC voted on December 2, 2002 on a 5 – 0 vote (with 2 absent) to recommend approval of the project. LUAC meeting minutes dated December 2, 2002.

2. **FINDING:** ***NO VIOLATIONS EXIST FINDING:*** 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. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

3. **FINDING:** ***HEALTH AND SAFETY FINDING:*** The establishment, maintenance or operation of the Use/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 & Building Inspection, the Carmel Highlands Fire Protection District, Environmental Health, Public Works, and Water Resources. The respective departments/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.

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

EVIDENCE: (a) Staff conducted on-site visit and prepared a written report indicating that the site is suitable for this use. Staff notes regarding the site visit are in PBI File No. PLN010528.

(b) The project was reviewed by Planning & Building Inspection, the Carmel Highlands Fire Protection District, Environmental Health, Public Works, and Water Resources. Conditions recommended have been incorporated.

(c) A Forest Management Plan has been provided by Forest City Consulting. This report indicates that the number of trees to be removed is the minimum necessary and prescribes a tree replacement policy. Forest Management Plan for Residential Parcel, 61 Riley Ranch Road, prepared by Glenn C. Flamik, Forest City Consulting, February 28, 2003. Report is in the project file.

(d) A Biological Report was prepared by Vandevere and Associates (October 17, 1995) for the subdivision application. This found that the development of the subdivision would not have significant biological impacts. Report is in the project file for subdivision (SB94001).

(e) A Geotechnical report on the subdivision was prepared by Grice Engineering and Geology, Inc. in April 1994. This report concluded that the subsurface materials of the site are suitable for the proposed subdivision, and recommend erosion control conditions are included in the conditions of approval. Report is in the project file for subdivision (SB94001).

(f) A Cultural Resource Evaluation of the Point Lobos Ranch Project in the County of Monterey" was prepared by Archaeological Resource Management on October 29, 1990. This report indicated that the subject parcel ("Lot 7") is not located within an archaeologically sensitive area, although several prehistoric sites do exist closer to Highway 1.

(g) Necessary public facilities are available/will be provided as shown in the application materials

5. FINDING: *ENVIRONMENTALLY SENSITIVE HABITAT (ESHA)* The proposed project is consistent with policies of the Carmel Area Land Use Plan dealing with development adjacent to environmentally sensitive habitats. The Biological Report prepared for the site by Vern Yadon states that no significant negative impact will result from this development. Conditions contained in the report include avoidance of ESHA, buffer areas, and the dedication of conservation easements.

EVIDENCE: (a) The Biological Report dated August 8, 2003, including follow up letters dated August 20, 2003, and October 8, 2003 prepared for the site by Vern Yadon pursuant to requirements of the Carmel Area Land Use Plan.

(b) Mitigation Measures 1, 2, and 3.

6. FINDING: *LANDMARK TREE FINDING:* The five landmark Monterey pine trees proposed for removal are the minimum required under the circumstances and will not involve risk of adverse environmental impacts pursuant to Section 20.146.060.D of the Carmel Area Coastal Implementation Plan.

EVIDENCE: (a) Staff conducted a site visit and observed that the site is uniformly covered by mature Monterey pine trees, and that no house site location would avoid these trees.

(b) The applicant revised his plans following review of the original plans by staff and the land use advisory committee. The revised plans reduced the maximum number of trees to be removed from 28 to 21 and the maximum number of landmark trees to be removed dropped from six to five.

(c) A condition of approval will insure that eight of the 21 trees tentatively approved for removal will be spared unless their removal is shown to be necessary. Three of these eight are landmark trees.

(d) The Forest Management Plan indicates that “tree cover on the parcel is abundant and the proposed placement of the improvements attempted to limit tree removal.” It states that six various site plans were reviewed and this one chosen as the one which minimized tree removal. It notes that “the building site, as proposed, was chosen to limit long-term impacts to the forest resources.”

7. FINDING: *CEQA FINDING:* On the basis of the whole record before the Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

EVIDENCE: (a) The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. This Initial Study identified potentially significant impacts to biological resources. The applicant has agreed to proposed mitigation measures that reduce the effects to a point where clearly no significant impact would occur. The Initial Study is on file in the office of P&BI and is hereby incorporated by reference (PLN010528). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval (Condition 3).

(b) A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with

Monterey County regulations and is designed to ensure compliance during project implementation. Applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval.

(c) Evidence that has been received and considered includes:

- I. Project Applications & Plans in file PLN010528/Whisler.
- II. Initial Study for SB94001: the Whisler Trust Subdivision (Riley Ranch Subdivision at Point Lobos), September 6, 1996 (Revised November 27, 1996)
- III. *Monterey County General Plan*
- IV. *Carmel Area Land Use Plan*
- V. *Regulations for Development in the Carmel Area Land Use Plan*
- VI. Title 20 of the Monterey County Code (Zoning Ordinance)
- VII. *CEQA Air Quality Guidelines*, Monterey Bay Unified Air Pollution Control District, Revised September 2002
- VIII. Site visits conducted by project planner on November 14, 2002 and July 30, 2003
- IX. Planning & Building Inspection Department's Geographic Information System
- X. Forest Management Plan for Residential Parcel, 61 Riley Ranch Road, Prepared by Glenn C. Flamik, Forest City Consulting, February 28, 2003
- XI. Biological Report for a New Residence at 61 Riley Ranch Road, Vern Yadon, Consultant, August 8, 2003
- XII. Follow-Up Letter from Vern Yadon to Thomas A. McCue, August 20, 2003
- XIII. Follow-Up E-mail from Vern Yadon to Thom McCue, October 8, 2003

7. FINDING: *APPEAL FINDING:* The decision on this project may be appealed to the Board of Supervisors and Coastal Commission.

EVIDENCE: (a) Section 20.86.030 of the Monterey County Zoning Ordinance (Board of Supervisors).
 (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Coastal Commission).

DECISION

THEREFORE, it is the decision of said Planning Commission that said request for a Combined Development Permit be approved as shown on the attached sketch, subject to the following conditions:

1. The subject Combined Development Permit (PLN010528 - Whisler) consisting of a Coastal Development Permit for a new one-story single family dwelling with a main floor (3,369 sq. ft.), a partial second floor (897 sq. ft.), a partial basement (632 sq. ft.), and an attached three-car garage (709 sq. ft.); a Coastal Administrative Permit for a detached 425 sq. ft. guest house with attached carport and grading (approx 900 cu. yds. cut and 250 cu. yds. fill); a Coastal Development Permit to allow the removal of 21 Monterey pines exceeding 12 inches in diameter and approximately 24 coast live oaks less than six inches in diameter; a Coastal Development

Permit for development within 100 feet of environmentally sensitive habitat; and design approval. The property is located at 61 Riley Ranch Road (Lot #7), Carmel (Assessor's Parcel Number 243-113-007-000), Carmel Area, Coastal Zone. 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 Demolition, Grading or Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution 03075) was approved by the Planning Commission for Assessor's Parcel Number 243-113-007-000 on November 12, 2003. The permit was granted subject to twenty-six (26) 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. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and/or Reporting Plan contained in the staff report is hereby incorporated herein in its entirety by reference. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(Planning and Building Inspection)**
4. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of **\$1,275. This fee shall be paid within five days of project approval**, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested, or final until the filing fees are paid. **(Planning and Building Inspection, Fish and Game Code Section 711.4)**
5. 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 three 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)**
6. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**
7. **DRAINAGE PLAN:** 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, as recommended in Grice Engineering's *Geotechnical Soils and Foundations Report for the Riley Ranch Major Subdivision*, dated April 1994.

Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**

8. **WATER AVAILABILITY CERTIFICATION:** 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)**
9. **WELL INFORMATION:** 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)**
10. The applicant shall record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.146.08C of the Coastal Implementation Plan and per the standards for development of residential property." **(Planning and Building Inspection Department)**
11. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks, avoiding an increase in soil depth at the feeding zone or drip line of the retained trees, and installing a barrier around the drip line. 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 Department)**
12. **GUESTHOUSE - DEED REQUIREMENT:** Prior to the issuance of permits for guesthouse construction, or for use of an existing structure as a guesthouse, the applicant shall record a deed restriction stating the regulations applicable to the guesthouse, including that the guesthouse shall not be separately rented, let or leased from the main residence and shall not have cooking or kitchen facilities. **(Planning and Building Inspection Department)**

Prior to the Issuance of Building Permits:

13. 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 a minimum of 60 feet in length. **(Carmel Highlands Fire Protection District)**
14. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Glenn Flamik of Forest City Consulting dated February 28, 2003 and is on record in the Monterey County Planning and Building Inspection Department Library, No. _____. All tree removal on the parcel must be in accordance with the Forest Management Plan, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to issuance of building or grading permits. **(Planning and Building Inspection Department)**

Prior to Final Building Inspection/Occupancy:

15. **WATER CONSERVATION MEASURES:** The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. **(Water Resources Agency, Planning & Building Inspection)**
16. 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, either landscaping shall be 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)**
17. 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)**
18. All new utility and distribution lines shall be placed underground. **(Planning and Building Inspection)**
19. All development on the parcel shall be in accordance with the Geological/Geotechnical report prepared for the site by Grice Engineering. Written certification shall be provided prior to final of the building permit. **(Planning and Building Inspection)**
20. 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 Highlands Fire Protection District)**
21. 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 Highlands Fire Protection District)**

22. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Carmel Highlands Fire Protection District)**

Continuous Permit Conditions:

23. None of the eight trees identified as trees #2, 3, 5, 6, 10, 20, 21, and 22 on the site map of the February 28, 2003 Forest City Consulting Forest Management Plan shall be removed unless the following criteria are met: a) a forester listed on the Department's forester list has certified in writing that the tree will likely lead to a hazardous condition and b) the Director of the Planning & Building Inspection Department has reviewed this certification and concurred that the tree should be removed. These trees are among the 21 trees tentatively approved for removal through this permit. **(Planning and Building Inspection)**
24. 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)**
25. 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)**
26. 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 12th day of November, 2003, by the following vote:

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

Original Signed By:

JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO APPLICANT ON

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

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.03.035, TITLE 19 (SUBDIVISIONS), MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON NOVEMBER 12, 2005. EXTENSION REQUESTS MUST BE MADE IN WRITING 30 DAYS PRIOR TO THE AFOREMENTIONED EXPIRATION DATE.

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 Monterey.

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