

RESOLUTION NO. 000064

A.P.# 197-181-016-000

In the matter of the application of  
**Sam Hopkins (PLN000064)**

FINDINGS & DECISION

for a Variance to Section 21.42.030F, in accordance with Title 21 (Zoning) Chapter 21.72 (Variances) of the Monterey County Code, for a reduction of the front yard setback requirements to allow construction of a new 715 square foot workshop; and Design Approval, located at 31430 Via Las Rosas, Carmel Valley, north of Via Las Rosas and south of Via La Naranja, Carmel Valley Master Plan area, came on regularly for hearing before the Zoning Administrator on January 31, 2002.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto, now makes the following findings and decision:

FINDINGS OF FACT

1. **FINDING:** The subject Permit (File PLN000064) as described in Condition No. 1, and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, the Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21). The property is located at 31430 Via Las Rosas (Assessor Parcel Number 197-181-016-000), east of Via La Gitana and south of Via La Naranja, Los Tulares Subdivision, Carmel Valley, Carmel Valley Master Plan area. The parcel is zoned "LDR/B-6-D-S" or Low Density Residential with Building Site, Design Review and Site Review overlay districts. The subject parcel is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21, and any zoning 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) The Carmel Valley Master Plan
  - b) Chapter 21.14 (LDR Zoning District Regulations), 21.42 (Building Site Zoning District Regulations), 21.44 (Design Control Zoning District Regulations) and 21.45 (Site Plan Review Zoning District Regulations) of the Zoning Ordinance (Title 21).**EVIDENCE:** The proposed use is consistent with the development standards, except the front yard setback requirements, for the Low Density Residential Zoning District of the Zoning Ordinance.  
**EVIDENCE:** The proposed tool shed is exempt from the requirements of Chapter 21.45 of the Zoning Ordinance (Administrative Permits), pursuant to Section 21.45.040 C.  
**EVIDENCE:** The proposed tool shed complies with Policies 26.1.24 (minimization of grading), 26.1.26 (visual compatibility) and 26.1.32 (visibility from neighboring properties) of the Carmel Valley Master Plan.  
**EVIDENCE:** The project site is suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Planning and Building Inspection Department, Health Department, Public Works Department, Water Resources Agency and the Carmel Valley Fire Protection District. There has been no indication from those agencies that the site is not suitable

for the proposed development. Each agency has recommended conditions for project approval.

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

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.

EVIDENCE: The on-site inspection by the project planner to verify that the proposed project complies with the applicable regulations.

EVIDENCE: See Findings and Evidence below for setback variance.

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

EVIDENCE: Section 15303 (e) of the CEQA Guidelines categorically exempts the proposed tool shed from environmental review. No adverse environmental impacts were identified during review of the proposed project.

3. FINDING: The site is physically suitable for the use proposed.

EVIDENCE: Construction of the tool shed at the proposed location would require only minimal grading and would result in minimal site disturbance.

EVIDENCE: There has been no testimony received, either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed.

EVIDENCE: The application materials and plans contained in File No. PLN000064.

4. 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.

#### **RECOMMENDED FINDINGS AND EVIDENCE FOR THE VARIANCE**

5. FINDING: Because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding area, the strict application of Title 21 is found to deprive the property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

EVIDENCE: The proposed one-story tool shed would have a 27-foot front yard setback where a 50-foot setback is required. While there is sufficient area within the existing driveway to accommodate the construction of the shed, construction at that location would significantly reduce the area available for vehicle turn around and would block the main pedestrian access to the dwelling, would significantly disturb the original development pattern on the property and would require

the relocation of an existing utility easement and utility lines; additionally, construction at this location would result a in significant visual impact to the neighboring property. There are no additional building sites as the rest of the parcel is restricted by its physical configuration which includes substantial areas with slopes over 30% and by the existence of a significant amount of oak trees.

6. **FINDING:** The Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- EVIDENCE:** Other properties in the Los Tulares Subdivision contain similar physical restrictions and relatively small developable areas. Except for the reduced front yard setback, the proposed workshop complies with applicable regulations for the property.
7. **FINDING:** This Variance does not allow for a use or activity, which is not otherwise expressly authorized by the zoning regulations governing the property.
- EVIDENCE:** Single family dwellings and accessory uses/structures, such as the one proposed, are allowed uses under the "LDR" (Low Density Residential) Zoning District, Section 21.14.030, Title 21.

### **DECISION**

THEREFORE, it is the decision of said Zoning Administrator that said application for Variance be granted as shown on the attached sketch, and subject to the following conditions:

1. This Permit consists of a Variance for reduction of front yard setback requirements to allow construction of a 715 sq. ft. one-story tool shed; and Design Approval. The property is located at 31430 Via Las Rosas (Assessor Parcel Number 197-181-016-000), east of Via La Gitana and south of Via La Naranga, Los Tulares Subdivision, Carmel Valley Master Plan area. 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)

#### **Prior to the Issuance of Grading and Building Permits:**

2. The applicant shall record a notice which states: "A Variance (Resolution 000064) was approved by the Zoning Administrator for Assessor's Parcel Number 197-181-016-000 on January 31, 2002. The permit was granted subject to 7 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. Submit a plot plan to the Division of Environmental Health showing the proposed new workshop and the existing septic system and future drainfield expansion area demonstrating compliance with Chapter 15.20 of the Monterey County Code. (Environmental Health)

**Prior to Final Building Inspection/Occupancy:**

4. 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 exterior 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. (Planning and Building Inspection Department)
5. The colors and materials of the proposed workshop shall reflect the color samples recommended by the Land Use Advisory Committee and which are contained in the project file. (Planning and Building Inspection Department)
6. 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 Fire District)
7. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 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 Department)

**PASSED AND ADOPTED** this 31st day of January, 2002.

Original Signed By:

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LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION 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 90<sup>th</sup> day following the date on which this decision becomes final.

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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 two years after the above date of granting thereof unless construction or use is started within this period.