

RESOLUTIO NO. 010169

A. P. # 009-471-008-000

In the matter of the application of
DECISION

FINDINGS AND

Philip & Teresa Quigley (PLN010169)

to allow a **Combined Development Permit** in accordance with Title 20 (Zoning) Chapter 21.210 (Combined Development Permits) of the Monterey County Code, to allow for the demolition of an existing 2,335 sq. ft. single family dwelling and to allow the construction of an approximately 2,934 sq. ft. two-story single family dwelling with an attached single car garage, grading (176.37 cu. yds. of cut/176.37 cu. yds. fill); a Coastal Development Permit to allow for development to be located within 750 feet of known archeological resources; and Design Approval. The project is located within 100 feet of environmentally sensitive habitat (the Carmel Lagoon), at 26448 Carmelo Street, Carmel, westerly of Scenic Road, Carmel Point area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on October 31, 2002.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

- 1. FINDING:** The proposed project consists of a Coastal Development Permit and Design Approval (Quigley/PLN010169) to allow the demolition of an existing single-story, 2,335 sq. ft. single-family dwelling and the construction of a two-story, 2,934 sq. ft. single-family dwelling, with an attached garage, and development of a property with a positive archeological report. The proposed development, together with the provisions of its design, are consistent with both the Carmel Area Land Use Plan and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.146 "*Regulations for Development in the Carmel Area Land Use Plan.*" The parcel is designated as "MDR 2D 18 (CZ)" (*i.e., Medium Density Residential, 2 units per acre, Design Control District, 18 foot maximum height limit, Coastal Zone*), which allows single-family dwellings. The site is physically suited for the use proposed.

EVIDENCE: The application and plans submitted for the Combined Development Permit in the project file at the Monterey County Planning and Building Inspection Department.

EVIDENCE: Design Approval Request form with plans recommended for approval by the Carmel Unincorporated /Highlands Land Use Advisory Committee with a 5 to 1 vote to recommend approval of project proposal; found in File No. PLN010169/Quigley.

EVIDENCE: The on-site inspection of the parcel by the project planner.

EVIDENCE: Based on the archaeological report prepared by Archaeological Consulting, dated March 13, 2002, and the addendum to said report dated August 16, 2002, the project will require mitigation of potential impacts to archeological resources located on the subject parcel. Conditions of project approval require dating archeological resources (shells, fauna, etc.) and to stop work in the event that any archeological resources are found on site. (Condition Nos. 10 and 17). Recommendations and measures are consistent with the requirements of Section 20.146.090 of the Coastal Implementation Plan.

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. The project has been reviewed by the Monterey County Planning and

Building Inspection Department, Water Resources Agency, the applicable Fire Department, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable. 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.

- 2. FINDING:** The project is consistent with the policies of the Carmel Area Land Use Plan dealing with development on parcels with known archeological resources on site.
- EVIDENCE:** An archeological survey report (Archeological Consulting, June 28, 2001) was prepared for the project pursuant to Section 20.146.090 of the Coastal Implementation Plan, Carmel Area. The report found that the parcel contained evidence of potentially significant archeological resources. The report recommended elimination of a proposed basement to reduce impacts to cultural resources on the site. The project design was revised to conform to the recommendations of the report.
- EVIDENCE:** An archeological resources mitigation plan (Archeological Consulting, March 13, 2002) was prepared (based on the revised project) to mitigate impacts to cultural resources resulting from the proposed project to a less than significant level. The mitigation measures contained in the report are recommended as conditions of approval of the project.
- EVIDENCE:** The design of the foundation of the residence was revised to address soil engineering issues while minimizing ground disturbance. The revised plan (Mandurrigo, Mandurrigo and Sullivan, June 6, 2002) minimizes ground disturbance by utilizing helical pier footings for the foundation.
- 3. FINDING:** The proposed project is consistent with public access requirements of the Coastal Act and the Carmel Area Land Use Plan, Section 20.146.130. The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:** Planning File No. PLN010169. Because of its inland location, the property is not appropriate for coastal access.
- 4. FINDING:** The approved project will not have a significant adverse impact on the environment.
- EVIDENCE:** The proposed project, including all permits and approvals, will not have any significant adverse impacts on the environment and a Mitigated Negative Declaration has been adopted. Potential environmental effects have been studied and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed and mitigated, may cause a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the initial study and in consideration of testimony and information received, and scientific and factual data presented in evidence during the public review process. Mitigation measures identified in the Initial Study have been incorporated into the project, and agreed to by the applicant, to reduce any impact to an insignificant level. All applicable mitigation measures are included in the conditions of approval, which are hereby adopted as a mitigation monitoring and monitoring program.
- Studies, data, and reports prepared by staff from various County departments, including Planning and Building Inspection, Public Works, Environmental Health and the Water Resources Agency support the adoption of the Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department, 2620 1st Ave., Marina. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts have been submitted that refute the conclusions of these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and independent assessment of those studies, data and reports.

5. **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, Health Department, Public Works Department, and the 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.
6. **FINDING:** The proposed project is consistent with the policies of the Carmel Area Land Use Plan dealing with development adjacent to environmentally sensitive habitats.
- EVIDENCE:** The Biological Report dated June 8, 2001, and supplemental report dated March 28, 2002 prepared for the site by Vernal Yadon pursuant to the requirements of the Carmel Area Land Use Plan.
7. **FINDING:** The project, as approved by the Coastal Development Permit, is appealable to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** Sections 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that the Mitigated Negative Declaration and Mitigated Monitoring Plan be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Coastal Development Permit and Design Approval (PLN010169/Quigley) allows the demolition of an existing single-story, 2,335 sq. ft. single-family dwelling and the construction of a two-story, 2,934 sq. ft. single-family dwelling. 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)**
2. 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)**
3. 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)**

4. New utility and distribution lines shall be placed underground. **(Public Works)**

Prior to the Issuance of Grading and Building Permits:

5. The applicant shall record a notice which states: “A permit (Resolution # 010169) was approved by the Zoning Administrator for Assessor's Parcel Number 009-471-008-000 on October 31, 2002. The permit was granted subject to **19** 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)**
6. 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, compatible 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 Department)**
7. 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)**
8. 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. The lowest floor and attendant utilities shall be constructed at least fourteen (14) feet above mean sea level (NGVD 1929). To provide for the flood proofing and certification of the lowest floor elevation, a reference marker set to the elevation of the lowest floor shall be established at the building site by a licensed land surveyor prior to the start of construction. An elevation certificate for the finished floor shall be completed by a registered civil engineer or licensed land surveyor and provided to the County Water Resources Agency prior to the inspection and approval of the building foundation by the building inspector. **(Water Resources Agency)**
10. The applicant shall provide evidence that a Registered Professional Archeologist has been retained to monitor excavation and to recover materials suitable for radiocarbon dating, as well as any other potentially significant archaeological features or resources. Said contract shall provide the archeologist authority to fulfill the following requirements:
 1. Prior to construction, an archeological data recovery project shall be conducted to recover and analyze any significant archeological resources in the site soil to be removed for construction of the garage and stairway. This shall include the following:

- a. Cultural soils to be excavated from the garage and stairway footprint will be excavated under the direction of the project archeologist. Soils removed from the site shall be deposited only in an area clearly identified and approved by the archeologist.
 - b. Any significant archeological discoveries will be subject to archeology recovery and analysis, which shall include the following:
 1. At least two radiocarbon dates shall be obtained from suitable shell;
 2. Professional analyses shall be conducted on other prehistoric materials (lithic artifacts and debitage, faunal remains, shell beads, etc.) if adequate amounts are recovered from the site.
 - c. If human remains are identified, the Monterey County Coroner will be notified immediately, and if it is determined that the remains are likely to be Native American, the Native American Heritage Commission will be notified as required by law.
 - d. A monitoring report suitable for compliance documentation shall be available within one week of the data recovery field work. A final technical report shall be prepared within one year following completion of field work.
 1. Demolition shall be monitored by the qualified archaeological monitor. The monitor shall be empowered to temporarily halt demolition activities to examine any potentially significant archaeological materials.
 2. Following demolition, all grading, foundation or utility trenching, soil grouting or other soil-disturbing activities on the parcel shall be monitored by a qualified archaeological monitor. The monitor shall be authorized to temporarily halt construction to examine any potentially significant archaeological resources or materials. If human remains are discovered, the Monterey County Coroner must be notified under the provisions of state law.
11. The applicant shall submit a signed contract with a qualified arborist (member of the ASCA or ISA-certified) to the Director of Planning and Building Inspection for approval to implement and report conformance with the tree protection measures recommended in the Tree Inspection Report (Forest City Consulting, April 18, 2002) prepared for the project.

Prior to Final Building Inspection/Occupancy:

12. 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)**
13. Size of letters, numbers and symbols for addresses shall be a minimum of 3" letter height, 3/8" stroke, contrasting with the background color of the sign. **(Fire District)**
14. 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)**
15. Remove flammable vegetation from within 30 feet of structure (or to property line). Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Fire District)**
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)**

Continuous Permit Conditions:

17. 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 (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)**
18. Demolition methods must minimize unnecessary disturbance of soil and impacts to the cultural resources on the parcel. Demolition should be monitored by a qualified archaeological monitor. The monitor should be

empowered to temporarily halt demolition activities to examine any potentially significant archaeological materials. **(Planning and Building Inspection)**

- 19. The property shall be kept free of invasive plants, including, but not limited to Pampas Grass, Kikuyu Grass and Cape Ivy. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 31st day of October, 2002.

Original Signed By:

LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE BOARD OF SUPERVISORS AND THE COASTAL COMMISSION.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. 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 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

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