

RESOLUTION NO. 020126

A. P. # 009-403-010-000

In the matter of the application of  
**Justin Roach (PLN020126)**

**FINDINGS AND DECISION**

to allow a **Combined Development Permit** in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit for an addition to a single family residence; a Variance to exceed the 35% lot coverage standard (to 38.8%); and Design Approval; located at 26294 Carmelo Street, Carmel, Coastal Zone, came on regularly for meeting before the Zoning Administrator on July 25, 2002.

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

1. **FINDING:** The Combined Development Permit, Variance and Design Approval, as described in Condition #1, is for an addition to a single family residence, a variance to exceed the 35% lot coverage standard (to 38.8%) and Design Approval. The property is located at 26294 Carmelo Street in the Carmel area of the Coastal Zone. The parcel is zoned "MDR /2 (18) (CZ)." Except for the Variance request, the project described in the application and accompanying materials, and as conditioned, conforms with the plans, policies, requirements and standards of the Carmel Area Land Use Plan, Part 4 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, or any other applicable provisions of Title 20 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:

- a) The certified Carmel Area Land Use Plan
- b) The certified Monterey County Coastal Implementation Plan regulations for MDR /2 (18) (CZ) District in the Coastal Zone, and
- c) Chapter 20.146 of the Monterey County Coastal Implementation Plan, "Regulations for development in the Carmel Area Land Use Plan Area."

**EVIDENCE:** The application and plans submitted, including the justification letter for the Variance, in the project file at the Monterey County Planning and Building Inspection Department.

**EVIDENCE:** The project planner conducted a site visit on July 16, 2002 to verify that the proposed project complies with the Monterey County Coastal Implementation Plan (Part 4).

**EVIDENCE:** Design Approval Request form with plans recommended for approval by the Carmel Unincorporated / Highlands Land Use Advisory Committee.

**EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property. While no violations are on record, the applicant's request has acknowledged the existence of the non-conforming rear independent living unit that will be modified with this application to conform to current code.

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

**EVIDENCE:** Section 15302 of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

**EVIDENCE:** The applicant commissioned Kent L. Seavey to perform a Historical records review and investigation of the property. According to the report, dated March 28, 2002 and included in County records, the structure is less than 50 years and does not meet any of the criteria for consideration of architectural merit or historic significance.

**EVIDENCE:** The applicant commissioned Archaeology Consulting Inc. who performed background and site investigations for the property. While seven archaeological sites are known to occur within one kilometer of the property and the parcel lies within CA-MNT1286, the field research concluded that there was no surface evidence of historic archaeological resources on the parcel. Yet, due to the project parcel being “immediately southeast of a parcel which encountered prehistoric artifactual materials during a construction project,” the archaeologist has recommended conditions of approval for the project.

3. **FINDING:** Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of Title 20 is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**EVIDENCE:** The 6,996 sq.ft. subject property is non-conforming as to lot area for the MDR/2 zoning designation and more reflects the lot size of a higher density district (roughly 6 units per acre instead of 2).

**EVIDENCE:** The existing architecture of the structure has eaves that exceed 30 inches in overhang. By Monterey County Code standards and definitions, these eaves that exceed 30 inches in length are calculated as lot coverage. Using this method of calculation, the existing structure exceeds lot coverage by 3.8% or 273 s.f.

**EVIDENCE:** Improvements on the property, such as the non-conforming “guest house” with full kitchen, and the non-conforming accessory structure side setback have existed contrary to current code allowances – and constitute privileges not enjoyed by other properties. The applicant’s proposal will correct this neighborhood disparity and the design and improvements to the property will be more in keeping with the spirit of the Carmel Area Land Use Plan and the letter of Zoning Code Title 20.

**EVIDENCE:** This property has been constrained by its relatively small land area, and that the large eaves (over 30” in length) are considered as lot coverage. The applicant’s design proposal would correct the side setback non-conformity, would correct and remove the second unit kitchen, and would be finished with no eaves in excess of 30 inches. The non-conforming lot coverage would actually be reduced by 2 s.f.

**EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

4. **FINDING:** The Variance does 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:** The applicant’s proposal actually removes (and corrects) privileges the property has enjoyed that have been inconsistent with the limitations upon other properties in the vicinity and zone.

**EVIDENCE:** The non-conforming lot coverage of the current structures and improvements on the property will be reduced in area by 2 s.f.

**EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

5. **FINDING:** The Variance does not grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.

**EVIDENCE:** This finding is inapplicable in this circumstance as the Variance is not being requested for a use or activity – but for acceptance of the applicant’s proposed lot coverage which is 2 sq.ft. less than the existing lot coverage. Use of the property for single family residential uses will remain constant, no matter the determination of the Variance request.

6. **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 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 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, Cypress Fire Protection District, 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.

**EVIDENCE:** File and application materials contained in the project file.

7. **FINDING:** The project is appealable to the Board of Supervisors, but not the California Coastal Commission.

**EVIDENCE:** Sections 20.78.050.E, 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 said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Variance and Combined Development Permit consists of a Coastal Administrative Permit for an addition to a single family residence; a Variance to exceed the 35% lot coverage standard (to 38.8%); and Design Approval. The property is located at 26294 Carmelo Street, Carmel (Assessor's Parcel Number 009-403-010-000), 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 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. If proposed grading volumes exceed 100 cu. yds., a grading permit shall be required pursuant to the Monterey County Code relative to Chapter 16.08. (See Continuous Permit Conditions for reference to cultural, archaeological, historical or paleontological resources protection **(Planning and Building Inspection)**).

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

3. The applicant shall record a notice which states: "A Variance and a Coastal Administrative Permit (Resolution 020126) were approved by the Zoning Administrator for Assessor's Parcel Number 009-403-010 on July 25, 2002. The permit was granted subject to **15** 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)**
4. 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. 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 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)**
5. 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)**
6. 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)**
7. 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)**
8. 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)**

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

9. 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)**
10. 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)**
11. Approximately 3 weeks prior to desired occupancy, the applicant shall call and schedule a field appointment with the project planner to review construction compliance with approved plans. **(Planning and Building Inspection)**

### **Continuous Permit Conditions**

12. 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)**

- 13. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**
- 14. Size of letters, numbers and symbols for addresses shall be a minimum of 3-inch letter height, 3/8-inch stroke, contrasting with the background color of the sign. **(Fire District)**
- 15. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Fire District)**

**PASSED AND ADOPTED** this 25<sup>th</sup> day of July, 2002.

Original Signed By:

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LYNNE MOUNDAY  
ZONING ADMINISTRATOR

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 SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE BOARD OF SUPERVISORS. IT IS NOT APPEALABLE TO THE COASTAL COMMISSION.

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.

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.