

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 010450

A. P. # 418-261-026-000

In the matter of the application of
Maxine Lingenfelter (PLN010450)

FINDINGS & 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 Use Permit for demolition of three residential units of 510 sq. ft., 811 sq. ft. And 925 sq. ft. in size; Construction of a new 4,689 sq. ft. one-story single family dwelling with an 800 sq. ft. detached garage; a 998 sq. ft. detached Caretaker's unit with a 523 sq. ft. attached garage; Grading (232 cu. Yds. of cut and fill); Two septic systems; Installation of water lines and two water tanks; and a Variance for establishment of a Caretaker's unit on a lot of 1.89 acres not served by public sewers, located at 37140 Nason Road, Carmel Valley, easterly of Prince's Camp and Nason Road, Cachagua area, came on regularly for meeting before the Zoning Administrator on June 12, 2003.

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

- FINDING:** The project and proposed use with the Variance, as conditioned, are consistent with and complies with all applicable plans and policies of the Monterey County Zoning Ordinance, Cachagua Area Plan, and Monterey County General Plan. The use and activities proposed are expressly authorized by the zone regulation governing the property. Several policy sections of the Cachagua Area Plan provide for the protection of groundwater from pollution and overdraft, and this project complies with these policy sections.

EVIDENCE: Planning and Building Inspection staff have reviewed the project for consistency with the Monterey County Zoning Ordinance (Title 21), the Cachagua Area Plan, and the Monterey County General Plan.

EVIDENCE: Several policy sections of the Cachagua Area Plan provide for the protection of groundwater from pollution and overdraft.

The Environmental Health Division of the Monterey County Health Department was contacted for an interpretation of these policies relative to the project. Correspondence was received from Environmental Health staff, stating that, regarding policy sections 5.1.2.1-3(C), that "the new septic systems will have to be a shallow trench design to maximize separation to groundwater," and regarding policy sections 5.1.2.3(C) and 6.1.3(C), that "in theory, (this development) should be a decrease in water use because the potential for three houses to use (...) water (is greater than) the two houses that are proposed." Additionally, the project meets the concurrency requirement of Policy 6.1.3(C), as an approved Monterey Peninsula Water Management District Form has been received from the Monterey County Water Resources Agency for the project.

EVIDENCE: The single family home is an allowed use in accordance with Section 21.14.030(A) of the Monterey County Zoning Ordinance. The caretaker unit is allowed subject to Administrative Permit approval in accordance with Sections 21.14.040(C) and 21.64.030 of the Monterey County Zoning Ordinance.

EVIDENCE: The parcel is zoned Low Density Residential, 5 acres per unit, or “LDR/5”. The project is in compliance with site development standards for a Low Density Residential zoning district pursuant to Section 21.14 of the Monterey County Zoning Ordinance.

EVIDENCE: The Cachagua Advisory Committee recommended approval of the project by 5 to 0, with two members absent, on November 13, 2002.

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 in project file PLN010450.

2. **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. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and determined that no violations exist on subject property.

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

EVIDENCE: The site has been reviewed for suitability by Public Works, the Water Resources Agency, Environmental Health, the Parks Department, the Planning and Building Inspection Department, and the Cachagua Fire Protection District. Conditions recommended by these organizations are incorporated.

EVIDENCE: Staff conducted a site visit on May 20, 2003 to verify that the site is suitable for this use.

EVIDENCE: Necessary public facilities are available or will be provided.

EVIDENCE: A Geologic and Soil Engineering report titled “Geologic and Soils Engineering report for Lands of Lingenfelter, 37140 Nason Road, Monterey County, California; Project LSW-0165-01 (February 2002),” has been prepared by Landset Engineers, Inc. Recommended conditions and modifications provide additional assurances for project safety and are incorporated as permit conditions. The report is in project file PLN010450 at the Monterey County Planning and Building Inspection Department.

4. **FINDING:** The project is categorically exempt from CEQA.

EVIDENCE: CEQA Guidelines Section 15303(a) categorically exempts the construction of two single family dwellings in a rural residential area. One of the proposed units exempted under this section is a caretaker unit.

EVIDENCE: No potential adverse environmental effects were identified during staff review of the development application or during the site visit on Tuesday, May 20, 2003.

EVIDENCE: Preceding Findings and Evidence.

- 5. FINDING:** The project as proposed is consistent with policies of the Cachagua Area Plan and Title 21 (Zoning Ordinance) dealing with development in archaeologically sensitive areas.
- EVIDENCE:** A condition has been added to require that archaeological monitoring occur during clearing, scraping, trenching, and grading (e.g., all potential excavation) and that work be stopped in the event that any archaeological resources are found on site.
- EVIDENCE:** Archaeological report prepared by Susan Morley, M.A., dated January, 2002, contained in the project file. The report states that there are no significant cultural resources, either historic or prehistoric in nature, on site. However, due to the archaeological sensitivity of the area and the site's proximity to the Excelen / Xásauan village site, monitoring is required during excavation activities.
- 6. FINDING:** Because of special circumstances applicable to the subject property, including size, location, and surroundings, the strict application of Section 21.64.030(C)(3) of the Monterey County Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
- EVIDENCE:** Review of applicant's submittal and Monterey County Zoning maps by Planning and Building Inspection staff confirms that the subject parcel is 1.89 acres in size, and that there are at least three lots in the immediate vicinity of the project parcel, each with zone classification identical to the project parcel, which have more than one residence and are less than two acres in size. The Assessor's Parcel Numbers associated with this development are 418-261-014-000, 418-261-015-000, and 418-261-034-000.
- EVIDENCE:** Review of the most current records of the Office of the Assessor for Assessor's Parcel Numbers 418-261-014-000, 418-261-015-000, and 418-261-034-000, reveals that each of these parcels has more than one residence. Planner's site visit on Tuesday, May 20, 2003 to the vicinity of Prince's Camp confirms that the actual density of development matches the records of the Office of the Assessor.
- EVIDENCE:** In terms of both wastewater output and general use, the existing units serve as the functional equivalent of a caretaker's unit, as evidenced by Don Lingenfelter's letter of justification for a caretaker's unit of July 30, 2002, which states that "my mother, and my disabled sister, ages 74 and 56, currently live on, and take care of the property. They will continue to do so, and (will) both occupy the new caretaker house, after construction is complete."
- 7. FINDING:** The variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. The proposed use and activity is expressly authorized by the zone regulation governing the property.
- EVIDENCE:** Letter of September 24, 2001 from the Director of Environmental Health, states in part (with respect to the project parcel), that "It is understood that the two proposed dwelling units, producing 600 gallons per day of wastewater, would be a reduction in the potential wastewater produced by the existing development." According to e-mail correspondence received from staff of the Environmental Health Division on May 7, 2003, "300 gallons per day (of potential wastewater output) is an average for three bedroom houses based on 75 gallons per person," and the Environmental Health Division of the Monterey County Department of Health "views

the residence and caretaker's unit as (each) potentially generating 300 gallons per day.” Therefore, each proposed dwelling unit for this project is assessed equally in terms of its potential wastewater output, and other homes in the area have similar or equal potential wastewater production.

EVIDENCE: Certain properties in the vicinity have been granted permits which effectively increase the potential for introduction of wastewater into the groundwater of the Prince’s Camp area, as evidenced by a staff review of development approved on Assessor’s Parcel Numbers 418-261-046-000 (PC06609 – increase from 23 trailer sites to 49 mobile home sites on a parcel of 11.34 acres), and Assessor’s Parcel Numbers 418-261-014-000, 418-261-015-000, and 418-261-034-000 (as referenced in Evidence under Finding (7), above).

EVIDENCE: Sections 21.14.030(A) and 21.64.030 of the Monterey County Zoning Ordinance (Title 21).

8. FINDING: Adequate sewage disposal and water supply facilities exist or are readily available to the site, as approved by the Director of Environmental Health.

EVIDENCE: Memorandum of March 31, 2003 from Roger Beretti, Environmental Health Specialist III, to Colin Gallagher, Assistant Planner, deeming the subject application complete with conditions recommended for septic system construction and water well requirements for the existing well.

EVIDENCE: Supporting evidence for Findings (6-8), above.

9. FINDING: The establishment, maintenance or operation of the 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: The project was reviewed by the Planning and Building Inspection Department, Public Works, the Water Resources Agency, the Parks Department, Environmental Health, the Cachagua Fire Protection District, and the Cachagua Land Use Advisory Committee. The respective organizations 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.

EVIDENCE: Preceding findings and supporting evidence.

10. FINDING: The decision on this project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040(B) of the Monterey County Zoning Ordinance.

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 Lingenfelter Combined Development Permit (PLN010450) consists of a Use Permit for demolition of three residential units of 510 sq. ft., 811 sq. ft., and 925 sq. ft. in size; and construction of a new 4,689 sq. ft. one-

story single family dwelling with an 800 sq. ft. detached garage; a 998 sq. ft. detached caretaker's unit with a 523 sq. ft. attached garage; grading (232 cubic yards of cut and fill); two septic systems; installation of water lines and two water tanks; and a variance for establishment of a caretaker's unit on a lot of 1.89 acres not served by public sewers. The property is located at 37140 Nason Road, Carmel Valley (Assessor's Parcel Number 418-261-026-000), easterly of Prince's Camp and Nason Road, Cachagua area. 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 No. 010450) was approved by the Zoning Administrator for Assessor's Parcel Number 418-261-026-000 on June 12, 2003. The permit was granted subject to 25 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 record a deed restriction as a condition of project approval, stating that "The caretaker unit shall not be rented to other than the caretaker. The caretaker shall be employed principally on the lot for purposes of care and protection of persons, plants, animals, equipment, or other facilities on-site or on contiguous lots under the same ownership." **(Planning and Building Inspection)**
4. 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)**
5. All cut and/or fill slopes exposed during the course of construction shall be treated to control erosion subject to the approval of the Director of Planning and Building Inspection. Erosion control notes shall be included on the building and grading plans (to match the measures illustrated on the approved plans in file no. PLN010450) to ensure compliance with the requirements. **(Planning and Building Inspection)**
6. Trees which are located close to the construction site shall be protected from damage by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks (by staking a temporary five-foot perimeter around the trees) and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Prior to issuance of grading and building permits, the applicant shall provide documentation and

photographs to verify said protection, which shall be subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

7. Prior to the commencement of any clearing and scraping, and prior to any trenching and grading, the archaeologist retained by the owner shall provide evidence (in the form of a monitoring agreement signed by the owner and archaeologist) to the Director of Planning and Building inspection that *“archaeological monitoring will occur at 37140 Nason Road (Cachagua area) immediately prior to and during any clearing and scraping or any trenching and grading on the project parcel.”* The signed agreement shall include a confirmation by the archaeologist that necessary coordination with the soils engineer (or qualified geotechnical professional) has occurred. **(Planning and Building Inspection)**
8. Prior to issuance of a permit (after demolition of the existing residences) the applicant shall provide evidence to the Director of Planning and Building Inspection, in the form of a memorandum from the qualified geotechnical professional retained for the project, that the following conditions have been met ***(the geotechnical professional shall certify in writing the following in a letter, verbatim, as shown in quotes below):***
 - a) *“That the soils engineer (or qualified geotechnical professional) has been notified of the date of the proposed site clearing and that arrangements have been made to coordinate the soil engineer’s work in the field with the work of the grading contractor, and that arrangements for testing and observation services have been made;”*
 - b) *“That the soils engineer (or qualified geotechnical professional) has coordinated with the archaeological consultant and that confirmation has been received that said archaeological consultant has been notified of the proposed date for the beginning of land clearing and scraping activities, and that said archaeological consultant is available and will be present at the onset of any and all of the following: clearing, scraping, trenching, and grading;”*
 - c) *“That no trees have been or are proposed to be removed, and that root systems will be protected in the implementation of grading for the project.”*
 - d) *“That no significant changes or variations in subsurface conditions are estimated to have occurred since the production of the February 2002 Landset Engineers report for the Lingenfelter property,” or if conditions have substantially changed, how this would change the geologic and soil engineering recommendations. (Planning and Building Inspection)*
9. The water tanks shall be painted an earth tone or stone color to blend into the area, and shall be located on the side of the dry drainage nearest to the proposed residence, unless clearance is obtained to place tanks on the other side of the drainage (in the form of a memorandum from the Water Resources Agency). The color of the water tanks is subject to the approval of the Director of Planning and Building Inspection prior to the issuance of building permits. **(Planning and Building Inspection)**
10. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site impacts. Storm water runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. **(Water Resources Agency)**

11. Prior to 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)**
12. 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)**
13. Prior to issuance of building permits, submit a detailed disposal system design to the Director of Environmental Health for review and approval meeting the regulations found in Chapter 15.20 of the Monterey County Code, and Prohibitions of the Basin Plan, RWQCB. **(Environmental Health)**
14. Prior to issuance of building permits, the existing septic system shall be destroyed under permit of the Division of Environmental Health. **(Environmental Health)**
15. Prior to issuance of a building permit, the owner shall destroy any abandoned well(s) according to the standards found in State of California Bulletin 74 and all its supplements, and Chapter 15.08 of Monterey County Code. Prior to destruction, a permit for the destruction of the well(s) shall be obtained by a licensed well contractor from the Division of Environmental Health. The well shall not be considered abandoned if satisfactory evidence is provided that the well(s) is/are functional, is/are used on a regular basis, and does/do not act as a conduit for contamination of groundwater. **(Environmental Health)**

Prior to Final Building Inspection/Occupancy:

16. The front yard and any areas disturbed by construction shall be landscaped. No flammable vegetation is allowed. 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. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, 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 Department)**
17. Prior to final inspection, a qualified geotechnical professional shall provide certification in writing to the Director of the Planning and Building Inspection Department that all geologic and soil engineering recommendations (as shown on pages 17-24 of the February, 2002 report prepared by Landset Engineering, Inc. for the project parcel) have been implemented in the design and construction of the project. The written certification shall also include a statement that confirms that **“the trees and root systems were protected at all times during the clearing and grading associated with the project, and no trees or root systems were damaged.”** **(Planning and Building Inspection)**

18. Prior to final inspection, the archaeologist shall submit a summary report detailing any relevant cultural and archaeological findings, if any, which were made during the on-site monitoring process. The report shall also include a statement indicating whether or not evidence of unmonitored excavation was found during the on-site monitoring. **(Planning and Building Inspection Department)**
19. Roof construction shall be “Class A” and residential sprinklers are required. Upon receipt of the building permit application, further requirements may be applied. **(Cachagua FPD)**
20. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstruction traffic on that road. Where gates are to be locked, the installation of a key box or other acceptable means to immediate access for emergency equipment is required. **(Planning and Building Inspection)**
21. The owner shall obtain address(es) and ‘911’ registry for the new structure(s), subject to registry and approval through the Public Works Department. Compliance with this condition shall be shown in the form of a clearance memorandum or call from Public Works. **(Planning and Building Inspection Department)**
22. 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)**

Continuous Permit Conditions:

23. 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)**
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 schedule a joint visit to 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)**

PASSED AND ADOPTED this 12th day of June, 2003.

Original Signed By:

MIKE NOVO
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 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.