

LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 020078

A. P. # 009-451-011-000

In the matter of the application of

**Michael & Christina Harland (PLN020078)**

**FINDINGS AND DECISION**

to allow a **Combined Development Permit** in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Development Permit to allow demolition of an existing 1,400 sq. ft. one-story single family residence and construction of a new 1,800 sq. ft. two-story single family residence with attached one-car garage, retaining wall and grading (approximately 180 cu. yds. cut) within 750 feet of a known archaeological site; a Coastal Administrative Permit for parking within the front set back; and Design Approval. The property is located at 26259 Hilltop Place, Carmel, fronting on Hilltop Place between San Antonio Avenue and Inspiration Avenue, Carmel area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on April 24, 2003.

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

**1. FINDING:** The Project, as conditioned is consistent with applicable plans and policies, the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

**EVIDENCE:** (a) Planning and Building Inspection Department (PBI) staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), and Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County 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. Staff notes are provided in Project File PLN020078.

(b) Project planner conducted an on-site inspection on January 2, 2003 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in Project File PLN020078.

(c) The project for a single family home is an allowed use, in accordance with Section 20.12.040.

(d) The parcel is zoned Medium Density Residential, 2 units/acre, Design Control District 18-foot height maximum, Coastal Zone ("MDR/2-D (18) (CZ))." The project is in compliance with Site Development Standards for a Medium Density Residential District in accordance with Section 20.12.060.

(e) Land Use Advisory Committee (LUAC): The Carmel Highlands/ Unincorporated Land Use Advisory Committee recommended approval of the project by a vote of 6 for and 1 against. The committee noted that the architectural style and color were appropriate for Carmel. LUAC meeting minutes dated January 6, 2003 (Exhibit "G"). They also cited a concern over drainage and water retention on-site because the house was being lowered, but the Water Resources Agency determined that the standard drainage condition sufficiently addressed the issue.

(f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN020078.

**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, and all zoning violation abatement cost, if any, have been paid.

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

**3. 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:** (a) The project was reviewed by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health Division, Parks Department and Cypress Fire District. The respective departments and 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.

(b) Technical reports have been provided by consulting geotechnical engineers with recommended conditions and modifications that provide additional assurances regarding project safety. The geological report concluded that although the Cypress Point fault comes very close to the subject property, the fault trace is at least 50 feet away and a setback from the fault trace is not necessary. However, the report did state that seismic shaking was a significant hazard present at the site, primarily from the major regional faults. Condition #5 has been added to ensure that the proposed structure is designed to withstand strong ground shaking.

(c) "Geological Report," prepared by CapRock Geology, Inc., Salinas, CA, December 20, 2002. "Preliminary Geotechnical Investigation," prepared by Soil Surveys Inc., Salinas, CA, December 17, 2002. A condition has been added that the recommendations of the geotechnical report are followed. Reports are in Project File PLN020078.

(d) An adjacent property owner raised concerns about the effect of lowering the lot on drainage and soils. The proposed holding tank and rear retaining wall address the issue. In

addition, the Water Resources Agency determined that its standard drainage condition adequately addressed the concerns.

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

**EVIDENCE:** (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks Department and Cypress Fire District. Conditions recommended have been incorporated.

(b) Technical reports by outside archaeology, historic and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, historic resources or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concurs. However, the archaeological report identified the potential for significant archaeological resources because of its proximity to a prehistoric site. The recommendations of the report that an archaeological monitor be present during construction activities and that at least one radiocarbon date be run on material were incorporated as conditions.

(c) The Geologic and Geotechnical reports found no significant hazards that would make the site unsuitable for the use proposed. The project's proximity to the Cypress Point fault does not represent a significant hazard or require any special measures. However, due to the major regional faults, structural design to withstand strong ground shaking is required.

(d) "Preliminary Archaeological Reconnaissance," prepared by Archaeological Consulting, Salinas, CA, November 25, 2002. "Geological Report," prepared by CapRock Geology, Inc., Salinas, CA, December 20, 2002. "Preliminary Geotechnical Investigation," prepared by Soil Surveys Inc., Salinas, CA, December 17, 2002. "Historic Evaluation" prepared by Enid Sales and Lois Roberts of Historic Preservation Associates, Carmel, CA, February 12, 2003. Reports are in Project File PLN020078.

(e) Staff conducted an on-site visit on January 2, 2003 to verify that the site is suitable for this use.

(f) Necessary public facilities are available and will be provided.

**5. FINDING:** On the basis of the whole record before the Zoning Administrator 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. The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of Planning and Building Inspection Department and is hereby incorporated by reference (File# PLN020078). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

(b) A Condition Compliance and 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 (Condition #8)

(c) Evidence has been received and considered which includes the application, technical reports (Archaeological Report, Historical Report, Geological Report and Geotechnical Report), and staff reports that reflect the County's independent judgment. These reports are on file in the offices of PBI (File# PLN020078) and are incorporated by reference herein.

(d) A Preliminary Archaeological Reconnaissance of the site, dated November 25, 2002, was prepared by Mary Doane and Gary Breschini of Archaeological Consulting, Salinas, CA. An existing residence, pavement and landscaping cover most of the small lot, limiting the visual survey of the soil and no evidence of archaeological resources were noted during the archaeological survey. However, the proposed project is located across the street from a site where prehistoric artifactual resources were found at a depth of two feet during a construction project. Because of its proximity, the subject parcel is considered to be within the abovementioned prehistoric site. Furthermore, the project proposes soil disturbance up to a depth of three feet. Although monitoring of projects on nearby parcels has proven the artifact density of the site to be sparse, the potential for impacting archaeological resources exists. The proposed project has potential archaeological impacts because of its proximity to a known site and the proposed soil disturbance. However, because of sparseness of the site and previous monitoring, the projects impacts are less than significant with the mitigation measures requiring an archaeological monitor and subsequent data recovery and report submittal.

(e) A Historic Evaluation was prepared by Enid Sales and Lois Roberts of Historic Preservation Associates dated February 12, 2003. According to the report, the existing residence was built in 1949 of typical post World War Two construction and material. In addition, there were major additions and changes in 1974 and 1979, which changed the house completely. The report states that the house "cannot be considered to have an architectural style, nor does it relate to any of the early styles important to the development of Carmel, therefore it cannot be deemed an historic resource." Furthermore, a review of people related to the structure determined that "no significant historical person has ever occupied the house under study." Based on the lack of architectural merit or any persons of note related to the structure, the existing residence does not qualify as a historic resource and demolition of the structure results in no significant impact.

(f) According to the Geologic Report prepared by CapRock Geology, Inc., Salinas, CA, dated December 20, 2002, the exact location of the Cypress Point Fault in the Carmel Point area is unknown, but the evidence indicates it runs to the west of the property at least 50 feet away. The report thus recommended that a setback from the fault trace was not necessary. It further determined that "the smaller potentially active or less active faults, including the Cypress Point fault, are not considered to represent a significant seismic hazard to site development." The major faults represent a greater hazard due to their potential for larger magnitude earthquakes, but the danger is no greater than at other sites. It was recommended that the structure be designed in accordance with County requirements and within the current edition of the Uniform Building Code. Standard Monterey County erosion control requirements will be

applicable during construction. On completion of exterior improvements and landscaping, the site will not be at notable risk of erosion problems. In addition, the Geotechnical Investigation dated December 17, 2002, provides foundation design recommendations suited to the investigated soil conditions on the site. No potential adverse geologic impact was identified based on the evidence that the subject property does not sit on a fault trace and that foundation has been designed to withstand seismic shaking within recommended parameters, underlying soil characteristics and the property's gentle slope. Typical conditions related to seismic safety design and erosion have been incorporated.

(g) The Mitigated Negative Declaration was circulated for public review from February 25, 2003 to March 26, 2003. No comments from the public were received.

(h) The Monterey County Department of Planning and Building Inspection, located at 2620 1<sup>st</sup> Ave., Marina, CA, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

(i) Staff site visit on January 2, 2003.

- 6. FINDING:** 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 (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access.  
(b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.  
(c) Staff site visit on January 2, 2003.

- 7. FINDING:** The project complies with applicable parking standards in Section 20.58.050 of the Monterey County Zoning Ordinance (Title 20).

**EVIDENCE:** (a) The proposed project meets the minimum parking standard of 2 spaces (1 covered) for a detached single family residence by providing 1 space in the proposed garage and second space in the driveway. However, the driveway space lies within the 20-foot front yard setback and requires a Coastal Administrative Permit, which has been applied for. Due to the small size of the lot (4,000 square feet), it is extremely difficult to provide parking outside of the front setback. Parking for the existing residence is currently within the front setback and lacks covered parking. No issues have been raised or identified relating to the parking within the setback. The existing residence has parking spaces in the front setback and lacks covered parking. The proposed project will bring the property into conformance with development standards and the new proposed space is also farther off the roadway than the current spaces.  
(b) Staff site visit on January 2, 2003.

- 8. FINDING:** The project is appealable to the Board of Supervisors and California Coastal Commission.

**EVIDENCE:** Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

### **DECISION**

THEREFORE, it is the decision of the Zoning Administrator of the County of Monterey that the said application for a Combined Development Permit be granted as shown on the attached sketch and to adopt the Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program subject to the following conditions:

1. The subject Combined Development Permit consists of a Coastal Development Permit and Design Approval to allow the demolition of an existing 1,400 square foot one-story single family residence and construction of a new 1,800 square foot two-story single family residence, attached one-car garage, retaining wall and grading (approximately 180 cubic yards cut) within 750' of a known archaeological site; and a Coastal Administrative Permit for parking within the front setback. The property is located at 26259 Hilltop Place, Carmel (Assessor's Parcel Number 009-451-011-000), fronting on Hilltop Place between San Antonio Avenue and Inspiration Avenue, 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 Grading and Building Permits:**

2. The applicant shall record a notice which states: "A permit (Resolution 020078) was approved by the Zoning Administrator for Assessor's Parcel Number 009-451-011-000 on April 24, 2003. The permit was granted subject to 22 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. 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)**
4. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

5. The applicant shall submit documentation to the Director of Planning and Building Inspection that the building permit plans have been reviewed by a qualified engineer and that the proposed structure has been designed to withstand strong ground shaking as identified in the Geological Report prepared by CapRock Geology, Inc., dated December 20, 2002. **(Planning and Building Inspection)**
6. The applicant shall incorporate the recommendations from the Preliminary Geotechnical Investigation Report prepared by Soil Surveys Inc., dated December 17, 2002, into the building permit plans and submit documentation to the Director of Planning and Building Inspection from a qualified geotechnical engineer that the building plans are consistent with the recommendations of the report. **(Planning and Building Inspection)**
7. Prior to issuance the applicant shall provide evidence that a Registered Professional Archaeologist has been retained to conduct the monitoring. The qualified archaeological monitor shall be present during construction or pre-construction activities that involve earth disturbance, such as foundation demolition, grading, excavation for footings and utilities, etc. If human remains or intact cultural features are discovered, work shall be halted on the parcel until the find can be evaluated by the monitor, the Director of Planning and Building Inspection notified, and appropriate mitigation or data recovery measures formulated and implemented. **(Planning and Building Inspection)**
8. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21080.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. **(Planning and Building Inspection)**
9. The applicant shall pay **\$840** mitigation monitoring fee to the Planning and Building Inspection Department, in addition to any other consultant and staff fees required for the long-term monitoring of the mitigation measures. **(Planning and Building Inspection)**
10. 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)**
11. 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)**
12. 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)**
13. 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)**

14. 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)**

15. In high and very high fire hazard areas, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be a Class A with fire resistive material. **(Fire District)**

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

16. 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 and Building Inspection)**
17. 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)**
18. At least 1 radiocarbon date shall be run on suitable material recovered during monitoring as mitigation for incidental impacts to the prehistoric cultural resources. Within 2 weeks of data recovery a monitoring report suitable for condition compliance shall be submitted to the Director of Planning and Building Inspection. A final



technical report shall be prepared within one year following completion of field work and submitted to the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

**Continuous Permit Conditions:**

19. 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)**
20. 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)**
21. 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)**
22. 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 24th day of April, 2003.

Original Signed By: \_\_\_\_\_

LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

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 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.