

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 020426

A.P. # 241-156-003-000
241-156-004-000

In the matter of the request of
Charles & Karen Osborne (PLN020426)

FINDINGS & DECISIONS

for a Combined Development Permit pursuant to regulations established by local ordinance and state law, to allow for development on two adjoining legal lots of record consisting of: 1) a Coastal Administrative Permit for demolition of a 520 sq. ft. addition (CA. 1978) and a new 1,365 sq. ft. first and second story addition to an existing two-story single family residence located on Lot A (the addition will be attached to the single family residence and an existing detached habitable accessory structure creating one structure with internal circulation), new deck, hot tub, water tank, propane tank, landscaping walls and 6 foot wooden grape-stake fencing; 2) a Coastal Development Permit for a waiver of the policy prohibiting development on slopes greater than 30%; 3) a Coastal Administrative Permit for a new 425 sq. ft. single family residence with a deck, hot tub, and carport, which will be located on Lot B; 4) Grading on both parcels (433 cubic yards of cut/639 cubic yards of fill); and 5) Design Approval. The properties are located at 222 and 224 Highlands Drive, Carmel, Carmel Highlands area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on December 11, 2003.

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

FINDINGS OF FACT

1, FINDING: CONSISTENCY, SITE SUITABILITY AND PUBLIC ACCESS – The Osborne Combined Development Permit and Design Approval (PLN020426), as described in Condition #1, and as conditioned, are consistent with the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Carmel Area Land Use Plan, Carmel Area Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The properties are located at 222 and 224 Highlands Drive, Carmel, Carmel Highlands area in the Coastal Zone. The parcel is zoned “LDR/1-D (CZ)” (Low Density Residential, 1 acre per unit, Design Control, in the Coastal Zone). The sites are physically suitable for the uses proposed. The project is in conformance with the public access and public recreation policies of the Coastal Act and the 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 impacts 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 application and plans submitted for the Combined Development Permit and Design Approval in project file PLN020426 at the Monterey County Planning and Building Inspection Department.

(b) The applicant provided the Monterey County Planning and Building Inspection Department with a Design Approval Request, drawings, and a statement of materials and colors to be used.

(c) The Geotechnical Engineering Report prepared by Buena Geotechnical Services, dated January 21, 2003, concludes that the sites are suitable for the project.

(d) The Archeological Report prepared by Archaeological Consulting, dated November 25, 2002, concludes that there is no surface evidence of potentially significant archeological resources on the sites.

(e) The project planner conducted site visits on July 16, 2003 and September 30, 2003, to verify that the proposed project complies with the LCP. The project will not have a significant adverse effect on the public viewshed.

(f) A Phase I Historical Assessment (DPR 523) was prepared by Kent Seavey (December 1, 2002) and concluded that the existing structures are of historic integrity and should be listed as a Monterey County historic resource at the local level of significance. The Phase II Historical Assessment prepared for this site by Kent Seavey, dated August 6, 2003, along with follow up letters, dated September 9, 2003 and October 8, 2003, concludes that the proposed plan for the rehabilitation of the historic structures (including the proposed addition) appears consistent with the Secretary of the Interior's Standards for Rehabilitation and will not cause a substantial adverse change in the historic significance of the structures.

(g) The Carmel Unincorporated/Highlands Land Use Advisory Committee reviewed and recommended approval (5 - 1 vote) of the Combined Development Permit and Design Approval on July 7, 2003 with minor comments/suggestions. The LUAC comments are incorporated in the project design or have been met as part of the planning permit review process.

(h) The subject properties are not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(i) The project and sites have been reviewed by the Monterey County Planning and Building Inspection Department, Coastal Commission, Carmel Highlands Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these agencies that the sites are 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 sites are not suitable for the use proposed.

2. FINDING: 30 PERCENT SLOPE WAIVER – The proposed development is consistent with Section 20.146.030.C.1.a of the “Regulations for Development in the Carmel Area Land Use Plan” since no other alternative exists on the site which would allow the development to occur on slopes less than 30% and the development in its proposed location better achieves the resource protection objectives and policies of the Carmel Area Land Use Plan.

EVIDENCE: (a) The project proposes approximately 180 sq. ft. in additions to the existing historic structures on manufactured slopes exceeding 30%. These are previously disturbed areas that are located between the existing structures. Development in this location will result in no tree removal, minimal grading and minimal erosion. A Geotechnical Engineering Report prepared for this site by Buena Engineering Services (January 21, 2003) concludes that the property may be developed as proposed provided that the report recommendations are included in the design and construction. A Phase II Historical Assessment prepared for this site by Kent Seavey

(August 6, 2003) concludes that the proposed plan for the rehabilitation of the historic structures (including the proposed addition) appears consistent with the Secretary of the Interior's Standards for Rehabilitation and will not cause a substantial adverse change in the historic significance of the structures. Based on the Geotechnical Investigation, the Phase II Historical Assessment, the applicant's request for a waiver of the policy prohibiting development on slopes greater than 30%, staff's analysis and site visits and the fact that these areas were previously disturbed, staff has determined that no other alternative site on the property exists which would allow the development to occur on slopes less than 30%. Development in other locations outside of the previously disturbed areas would result in potentially significant impacts due to tree removal and adverse changes in the historic significance of the structures.

(b) The application and plans submitted for the Combined Development Permit and Design Approval, including the 30% Slope Exception Request, in project file PLN020426 at the Monterey County Planning and Building Inspection Department.

3. **FINDING:** CEQA – The proposed project will not have a significant environmental impact.
EVIDENCE: (a) Sections 15301(e), 15061(b)(3), 15303(a), and 15331 of the CEQA Guidelines exempt the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.
(b) A Phase I Historical Assessment (DPR 523) was prepared by Kent Seavey (December 1, 2002) and concluded that the existing structures are of historic integrity and should be listed as a Monterey County historic resource at the local level of significance. A subsequent Phase II Historical Assessment was prepared by Kent Seavey (August 6, 2003) along with follow up letters (September 9, 2003 and October 28, 2003) and concludes that the proposed plan for the rehabilitation of the historic structures (including the proposed addition) appears consistent with the Secretary of the Interior's Standards for Rehabilitation and will not cause a substantial adverse change in the historic significance of the structures. The Phase II Historical Assessment also recommends measures that will help return the site to its former historic appearance. These measures have been incorporated in the plans.
4. **FINDING:** NO VIOLATIONS – The subject properties are in compliance with all rules and regulations pertaining to zoning uses, subdivisions and other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: (a) Sections 20.14.020 and 20.44.020 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on the subject properties.
5. **FINDING:** HEALTH AND SAFETY – The establishment, maintenance, and operation of the proposed development 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: (a) Preceding findings and supporting evidence.
6. **FINDING:** APPEALABILITY – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

EVIDENCE: (a) Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance (Title 20).

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said request for a Combined Development Permit be approved as shown on the attached sketch, subject to the following conditions:

1. The Osborne Combined Development Permit and Design Approval (PLN020426) allow for development on two adjoining legal lots of record and consist of: 1) a Coastal Administrative Permit for demolition of a 520 sq. ft. addition (ca. 1978) and a new 1,365 sq. ft. first and second story addition to an existing two-story single family residence located on Lot A (the addition will be attached to the single family residence and an existing detached habitable accessory structure creating one structure with internal circulation), new deck, hot tub, water tank, propane tank, landscaping walls and 6 foot wooden grape-stake fencing; 2) a Coastal Development Permit for a waiver of the policy prohibiting development on slopes greater than 30%; 3) a Coastal Administrative Permit for a new 425 sq. ft. single family residence with a deck, hot tub, and detached garage, which will be located on Lot B; and 4) Grading on both parcels (433 cubic yards of cut/639 cubic yards of fill). The properties are located at 222 and 224 Highlands Drive, Carmel (Assessor's Parcel Numbers 241-156-003-000 [Lot A] and 241-156-004-000 [Lot B]), Carmel Highlands area, Coastal Zone. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice that states: "A permit (Resolution No. 020426) was approved by the Zoning Administrator for Assessor's Parcel Numbers 241-156-003-000 and 241-156-004-000 on December 11, 2003. 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)**
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 that 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. Native trees located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks

and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Protective fencing and grading limits shall be reviewed and established by the contractor in consultation with a qualified forester or arborist immediately prior to commencement of demolition and excavation operations. Said protection shall be demonstrated in the form of photos and a letter from a qualified forester or arborist prior to the issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

5. Prior to issuance of a grading or building permit, the applicant shall record an access easement that allows access via the existing driveway from 224 Highlands Drive (Assessor's Parcel Number 241-156-004-000) to 222 Highlands Drive (Assessor's Parcel Number 241-156-003-000). Proof of recordation shall be furnished to the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
6. Prior to issuance of any building permits, the applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. **(Water Resources Agency)**
7. Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. **(Water Resources Agency)**
8. All conditions are on the plans for sprinklers/address/clearance, etc. and shall be included on the building permit plans. **(Carmel Highlands Fire Protection District)**

Prior to Final Building Inspection/Occupancy:

9. The site shall be landscaped. At least 60 days prior to occupancy, three (3) 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 include measures to screen the water tank.* 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, either landscaping shall be 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)**
10. The project shall follow the recommendations of the Geotechnical Engineering Report prepared for the site by Buena Geotechnical Services, dated January 21, 2003. A letter from a qualified soil or civil engineer shall be submitted to the Director of Planning and Building Inspection stating that the construction conforms to recommendations in the report. **(Planning and Building Inspection)**
11. The project shall follow the recommendations of the Phase II Historical Assessment prepared for the site by Kent Seavey, dated August 6, 2003. A letter from a qualified historic resource consultant shall be submitted to the Director of Planning and Building Inspection stating that the construction and plan for rehabilitation conforms to recommendations in the assessment. **(Planning and Building Inspection)**
12. 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:

- 13. If cultural, archeological, 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 archeologist. The Monterey County Planning and Building Inspection Department and a qualified archeologist (i.e., an archeologist registered with the Society of Professional Archeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archeologist 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)**
- 14. 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)**
- 15. 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 11th day of December, 2003.

Original Signed By:

MIKE NOVO, ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO 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 two years after the above date of granting thereof unless construction or use if started within this period.