

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 010032

A.P. # 241-252-007-000

**FINDINGS AND DECISION**

In the matter of the application of  
**Joshua G. Hageman (PLN010032)**

for a Coastal Development Permit in accordance with Title 20 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit for development of a well, and a Coastal Development Permit for development within 750 feet of an archaeological resource. The property is located at Spindrift Road, Carmel Highlands, west of Highway 1 and east of Spindrift Road, Carmel Highlands area, Coastal Zone, came on regularly for hearing before the zoning administrator on February 26, 2004.

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

**1. FINDING: CONSISTENCY, SITE SUITABILITY, AND ACCESS:** The Hageman Combined Development Permit (PLN010032), as described in Condition No. 1, and as conditioned, is 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 property is located at Spindrift Road, Carmel Highlands (Assessor's Parcel Number 241-252-007-000), west of Highway One and east of Spindrift Road, Carmel Highlands area. The parcel is zoned "LDR/1 (CZ)" (Low Density Residential, 1 acre per unit, in the Coastal Zone). The test well site is physically suitable for the use. The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program. The property is located at Spindrift Road, Carmel Highlands (Assessor's Parcel Number 241-252-007-000), west of Highway One and east of Spindrift Road, Carmel Highlands area, Coastal Zone.

**EVIDENCE:** (a) Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the Monterey County Coastal Implementation Plan, the Carmel Area Land Use Plan, and the Monterey County Zoning Ordinance (Title 20).  
(b) The project planner conducted analyses and on-site inspections to determine whether the project conforms to policies and regulations in the plans listed above, and transmitted the applicant's submittal of a Hydrogeologic report to the Division of Environmental Health for review and comment.  
(c) The Carmel Highlands / Unincorporated Land Use Advisory Committee recommended approval of the project by a vote of 5 to 0, with 0 abstaining, on September 4, 2001.  
(d) The Division of Environmental Health (DEH) commented (via a memorandum dated January 20, 2004) on the Hydrogeologic report and provided testimony at the public hearing (of February 12, 2004) for the project, stating that "(t)he long-term supply is not guaranteed." The DEH indicated at that hearing that the DEH could recommend "a

condition of approval that would notify any potential developer or purchaser of this property that there are issues with developing based on well location, topography, setback, and natural drainage for the location of any septic system.” A deed restriction has been recommended by the DEH and is included as a condition of approval.

(e) The application, plans, and supporting materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development in project file PLN010032.

2. **FINDING: POLICY CONSISTENCY:** The proposed project, as conditioned, is consistent with Carmel Land Use Plan policies 2.4.4.A.1-2.
- EVIDENCE:** (a) Carmel Land Use policy 2.4.4.A.1 states in part that “New development shall be approved only where it can be demonstrated by the applicant that adequate water is available from a water utility or community system or an acceptable surface water diversion, spring, or well.”
- (1) The Division of Environmental Health (DEH) has recommended a deed restriction be recorded against the property as a condition of approval, specifying terms of use of the well.
- (b) Carmel Land Use policy 2.4.4.A.2 states in part that “As part of the permit process, the applicant must also demonstrate that the proposed new water use or use intensification will not adversely affect both the natural supply necessary to maintain the environment, including wildlife, fish, and plant communities, and the supply available to meet the minimum needs of existing users during the driest year. At the County's discretion, the applicant may be required to support his application through certification by a consultant deemed qualified by the County to make such determinations.”
- (c) Letter sent from project planner to applicant, dated Oct. 2, 2002, which included requirements for the project Hydrogeologic report.
- (d) Comprehensive Hydrogeologic Evaluation for Hageman Property, dated October 22, 2003, prepared by Weber, Hayes, and Associates.
- (e) Memorandum sent from Joe Oliver, C.Hg. #164 (Water Resources Division Manager) of the Monterey Peninsula Water Management District (MPWMD) to the Division of Environmental Health, dated December 31, 2003.
- (f) Memorandum sent from the Division of Environmental Health to the Planning and Building Inspection Department, dated January 20, 2004.
- (g) Letter sent from Joseph Hayes, C. Hg. #373 to Josh Hageman, dated February 4, 2004.
3. **FINDING: CEQA (EXEMPT) --** The project, as conditioned, will not have a significant environmental impact, and is categorically exempt from CEQA.

- EVIDENCE:** (a) The existing well has been conditioned to allow for a continued use for testing. No serious disturbance to an environmental resource has occurred. Use of the well for hydrologic tests does not present the possibility of an exception to an exemption (Section 15300.2, CEQA Guidelines).
- (b) The operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private facilities and mechanical equipment involving negligible or no expansion of use, is categorically exempt from CEQA (Section 15301, CEQA Guidelines).
- (c) Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an

environmental resource, and which are for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved or adopted, are categorically exempt from CEQA (Section 15306, CEQA Guidelines).

(d) No expansion of use of the existing well is authorized by the approval of this permit, and Hydrogeologic testing activity at the well site does not present the possibility of a serious disturbance to an environmental resource. Therefore, the project, as conditioned, will not have a significant environmental impact and is categorically exempt from CEQA.

- 4. FINDING: HEALTH AND SAFETY:** The establishment, maintenance, or operation of the test well will not, under the circumstances of the particular case, be detrimental to 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:** (a) The scope of the approval for this permit does not allow use of the well for domestic purposes.  
 (b) The Zoning Administrator, at a public hearing for the project (on February 12, 2004), requested that as a condition of approval, a deed restriction be recorded to include a statement that the well on the property is not approved for domestic use unless another Coastal Development Permit is approved.  
 (c) Preceding findings and supporting evidence.
- 5. 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:** Section 20.14 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.
- 6. FINDING: APPEALABILITY** - The project is appealable to the Board of Supervisors, and is not appealable to the California Coastal Commission.
- EVIDENCE:** (a) Sections 20.86 of the Monterey County Coastal Implementation Plan (Part 1).  
 (b) Post-LCP Certification – Permit and Appeal Jurisdiction Maps, County of Monterey. The maps show that the property is not within appeal jurisdiction of the Coastal Commission.  
 (c) The well site is not within 100 feet of a wetland and is thus not appealable to the Coastal Commission, pursuant to Section 20.86.080.A.2 of the Monterey County Coastal Implementation Plan (Part 1).

### DECISION

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

1. The Hageman Combined Development Permit and (PLN010032) allows for development on a legal lot of record and consists of a Coastal Administrative Permit for development of a well, and a Coastal Development Permit for development within 750 feet of an archaeological resource. Approval of the

Permit would limit the use of the existing well to testing only. Domestic use of the well (use of well as a water supply for structure(s) which would be permitted on the property) is not part of this project approval. The property is located at Spindrift Road, Carmel Highlands (Assessor's Parcel Number 241-252-007-000), west of Highway 1 and east of Spindrift Road, Carmel Highlands area, Coastal Zone. No use 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 other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

- 2. Within 30 days after the final decision on this project (Hageman, PLN010032), the applicant shall record a deed restriction with the Monterey County Recorder for the project parcel stating the following:

"The well on this parcel is not approved for use as a source of domestic water, unless another Coastal Development Permit is approved. Well yields in fractured rock aquifer systems have been shown to decline significantly over time. The experience of declining and failing yields in these wells is due to the meager ability of fractured rock to store and transmit water. The Monterey Peninsula Water Management District concurs with the position of the Health Department in that given the intrinsic uncertainties regarding the long-term sustainability of wells in this Hydrogeologic environment and the location near the coastline, neither regulatory authority can recommend this well as an adequate long-term source of water for this parcel. There are significant restrictions for the installation of an on-site subsurface wastewater disposal system due to the lot size, topography, and required setbacks from natural drainage. Therefore, any development creating wastewater on this property will be required to connect to an approved sanitary sewer, unless other means are approved by the Director of the Monterey County Health Department." **(Division of Environmental Health)**

- 3. Within 30 days after permit approval, the applicant shall record a notice that states: "A permit (Resolution No. 010032) was approved by the Zoning Administrator for Assessor's Parcel Number 241-252-007-000 on February 26, 2004. The permit was granted subject to 3 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 continuance of the use. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 26th day of February, 2004.

Original Signed By:

MIKE NOVO  
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 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 Monterey.

2. This permit expires two years after the above date of granting thereof unless construction or use if started within this period.