

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030012

A. P. # 243-152-010-000

In the matter of the application of
Roy & Judith Magruder (PLN030012)

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 Coastal Administrative Permit and Design Approval for demolition of an existing one-story single family dwelling and the construction of a new 3,470 square foot, two-story single family dwelling with attached garage; a Coastal Development Permit for the removal of two trees (a landmark Monterey pine and a landmark Monterey cypress); a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; a Coastal Development Permit for development within 50 feet of a coastal bluff. The property is located at 86 Yankee Point Drive, Carmel, Carmel Riviera, Coastal Zone, came on regularly for meeting before the Zoning Administrator on July 29, 2004.

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

1. FINDING: CONSISTENCY - The Project, as conditioned is consistent with applicable plans and policies, Carmel 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) PBI staff have reviewed the project as contained in the application and accompanying materials for consistency with the Carmel 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 Land Use Plan, which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN030012.

(b) Project planner conducted on-site inspections on April 14, 2003 and July 15, 2004 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 PLN030012.

(c) The parcel is zoned Low Density Residential, 1 units/acre, Design Control District, Twenty Foot height limit, Coastal Zone ("LDR/1-D 20 (CZ))." The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.14.060.

(d) An Archeological Report (Archeological Consulting, April 1, 2003) was prepared to determine the potential for the presence of significant archeological materials on site, pursuant to Section 20.147.080. The report concluded that no archeological resources exist on the project site. The report recommended that any permits issued for the site include a condition requiring that if archeological resources or human remains are discovered during construction, work is halted until the find is evaluated by a qualified

archeologist. This recommendation is included in the condition of project approval (Condition #14).

(e) A Biological Report (Ed Mercurio, May 6, 2003) was prepared to determine the potential for the presence of significant biological resources on site, pursuant to Section 20.146.040. The report concluded that no biological resources exist on the project site. The report recommended measures to ensure protection to species (seals and birds) not present during the biological survey, but potentially present later. These recommendations are included in the conditions of project approval (Condition #7).

(f) A Forest Management Plan (James P. Allen & Associates) was prepared pursuant to Section 20.146.060. The report concludes that the proposed tree removal would not have an adverse impact on forest resources on site. The report included measures to protect retained trees during construction and recommended planting two trees to replace those removed. The recommendations of the FMP are included in the conditions of project approval. (Condition #6 and 13).

(g) A Geotechnical Investigation (Haro, Kasunich & Associates, May, 2003), and an addendum dated April 23, 2004, were prepared. The recommendations contained in the investigation and addendum have been incorporated into the design of the project and have been incorporated into the geologic report recommendations.

(h) A Geologic Report (Haro, Kasunich & Associates, April 2004) was prepared pursuant to Section 20.146.080. The recommendations contained in the geologic report have been incorporated into the design of the project and are included as a condition of approval.

(i) The Carmel Highlands/Unincorporated Land Use Advisory Committee voted 4 to 0 to recommended approval of the project. LUAC meeting minutes dated June 7, 2004. The project conforms to Section 20.147.070.C regarding aesthetics because the design, materials and colors are subordinate to and blended into the environment.

(j) 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 PLN030012.

2. FINDING: LANDMARK TREES - No alternatives to development exist whereby the removal of the two landmark trees (one Monterey cypress and one Monterey pine) can be avoided.

EVIDENCE: (a) The recommendations within the Geotechnical Investigation and Geologic Report require the structure to be set back farther from the Coastal Bluff than the existing home. This relocation leaves no alternative to the removal of the landmark Monterey cypress.

(b) The landmark Monterey pine was determined to be in a state of severe decline with symptoms of pine pitch canker and weak stem attachments. This tree, which was verified by a staff field visit on July 15, 2004, is a hazard to existing and proposed property improvements and there is no alternative to its removal.

3. FINDING: NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and all 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: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

4. **FINDING: HEALTH AND SAFETY** - 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, and Division of Environmental Health. 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.
5. **FINDING: SITE SUITABILITY** - 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, and Department of Environmental Health. Conditions recommended have been incorporated.
- (b) Staff conducted an on-site visit on April 14, 2003 to verify that the site is suitable for this use.
- (c) Necessary public facilities are available and will be provided.
6. **FINDING: CEQA:** - The project is exempt from environmental review.
- EVIDENCE:** (a) CEQA Guidelines Section 15302 categorically exempts reconstruction of single-family dwellings.
- (b) No adverse environmental effects were identified during staff review of the development application or during a site visit on April 14, 2003.
- (c) The technical report by an outside biological consultant indicates that there are no potentially significant environmental impacts. "Biological Report" prepared by Ed Mercurio, May 6, 2003. Reports are in Project File PLN030012.
- (d) The technical report by an outside archeological consultant indicates that there are no potentially significant archeological impacts. "Archeological Reconnaissance" prepared by Archeological Consulting, April 1, 2003. Reports are in Project File PLN030012.
- (e) The technical report by an outside forester indicates that the proposed tree removal would not have an adverse impact on forest resources on the site. "Forest Management Plan" prepared by James P. Allen, May, 2003.
7. **FINDING: PUBLIC ACCESS** - 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) The subject property is not indicated as part of any designated trails or shoreline access as shown in the Recreational Facilities Map and the Shoreline Access Map, of the Carmel Area Land Use Plan.
- (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- (d) Staff site visit on April 14, 2003.

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

EVIDENCE: (a) Sections 20.86.030.A and 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

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 attached conditions.

PASSED AND ADOPTED this 29th day of July, 2004.

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 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 Marina.

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