

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030491

A. P. # 009-431-034-000

In the matter of the application of
Robert & Sheila Johnson (PLN030491)

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 Administrative Permit and Design Approval for demolition of a 2,911 sq. ft. two-story single family dwelling and construction of a new 1,853 sq. ft. two-story single family dwelling with attached garage, basement (950 sq. f.), pool, and grading (686 cu. yds of cut; 20 cu. yds. of fill); and a Coastal Development Permit for development with a positive archaeological report. The property is located at 26309 Ocean View Avenue, Carmel, Carmel area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on April 8, 2004.

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

1. **FINDING: CONSISTENCY, SITE SUITABILITY, & PUBLIC ACCESS** – The subject Combined Development Permit, as conditioned, conforms to the plans, policies, requirements, and standards of the certified Monterey County Local Coastal Program (LCP). The LCP for this site consists of the *Carmel Area Land Use Plan*, the *Regulations for Development in the Carmel Area Land Use Plan* (Part 4), Part 6 of the Coastal Implementation Plan (Appendices), and the Monterey County Zoning Ordinance (Title 20). The property is located at 26309 Ocean View Avenue, Carmel (Assessor's Parcel Number 009-431-034-000), in the Carmel area of the Coastal Zone. The parcel is zoned “MDR/2-D (18’) (CZ)” ; i.e., “Medium Density Residential, 2 units per acre, with an 18 foot height limit, in a Design Control District, in the Coastal Zone.” The site is physically suitable for the use proposed. 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 Section 20.70.050.B.4 of Title 20). No access is required as part of the project as no substantial adverse impact on public coastal 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) Planning and Building Inspection Department (PBID) staff have reviewed the project as contained in the application and accompanying materials for conformity with the certified Monterey County Local Coastal Program and have determined that the project is consistent as conditioned. Permit application, plans, and materials contained in Project File No. PLN030491.
 - (b) The project planner conducted onsite inspections on March 26, 2004, to verify that the project on the subject parcel conforms to the certified Monterey County Local Coastal Program.
 - (c) The requested Combined Development Permit is for continued residential development

and use of the subject parcel. Residential development is permitted for the subject lot pursuant to Chapters 20.12 (MDR [CZ] District) and 20.76 (Coastal Administrative Permits) of the Zoning Ordinance (Title 20).

(d) The parcel is zoned Medium Density Residential, 2 units per acre, with an 18 foot height limit, in a Design Control District, in the Coastal Zone.

(e) The Carmel Area Land Use Advisory Committee conditionally recommended approval of the project by a vote of 3 to 2; LUAC meeting minutes dated October 20, 2003. The LUAC's condition that no stainless steel elements of design shall be allowed and that exterior wood board & batten fence and top rail shall be stained or left natural to match exterior wall color is incorporated into Condition 1.

(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 No. PLN030491.

(g) There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, the applicable Fire Department, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is 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 site is not suitable for the use proposed.

(h) The project as proposed is consistent with policies of the *Carmel Area Land Use Plan* dealing with development in archaeologically sensitive areas. An archaeological report, dated December 15, 2003, has been prepared by Archaeological Consulting for the proposed project, the results of which were positive (report contained in the project file PLN030568). Several positive archaeological sites are located within 750 feet of the project site. Condition 18 has been added to require that work be stopped in the event that any archaeological resources are found on site. Pursuant to Section 20.146.090.D of the *Regulations for Development in the Carmel Area Land Use Plan*, the mitigation measures recommended by the archaeological report prepared for the project are required as a condition of approval (Condition 18/MM1), the applicant shall request to add the combining "HR" zoning district to the existing zoning on the parcel (Condition 7), preservation measures recommended by the mitigation plan prepared by the project archaeologist for resources discovered during construction shall be undertaken concurrent with grading or other soil disturbing activities (Condition 8), and a report on any preservation activities undertaken pursuant to the mitigation plan prepared by the project archaeologist (MM1) shall be submitted to the County prior to final inspection (Condition 9). The LCP requirement that the archaeological site shall be placed in an archaeological easement is deemed not necessary due to the small size of the lot; disturbance caused by the existing development, and due to the other required mitigation measures and conditions of approval discussed above. The project is in seismic hazard zone "VI" (highest seismic risk) as found on the resource maps of the Carmel Area Land Use Plan and is within 1/8 of a mile from the Cypress Point fault, which is defined by the Monterey County Local Coastal Program as a potentially active fault. A geologic report has been prepared for the proposed project by CapRock Geology, Inc., dated September 2, 2003. A geotechnical report has been prepared for the proposed project by Pacific Crest Engineering, Inc., dated August 20, 2003. The recommendations of both reports are required as mitigation measures pursuant to the Mitigated Negative Declaration prepared for the project and herein adopted. Pursuant to Section

20.146.080.D.1.f of the *Regulations for Development in the Carmel Area Land Use Plan*, Condition 10 requires that a registered geologist and licensed geotechnical engineer shall certify that the development will not result in an unacceptable risk or injury or structural damage.

(i) The subject property is not adjacent to the seashore and is not described as an area where the Local Coastal Program requires public coastal access, according to Sections 20.70.050.B.4.c.i and ii of the Zoning Ordinance (Title 20).

2. FINDING: CEQA – The project is subject to environmental review pursuant to requirements of the California Environmental Quality Act. 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) CEQA Guidelines Section 15300.2 (Exceptions) disallows the project to be categorically exempted from CEQA review due the project’s location, the potential for significant effects, due to archaeological resources present onsite and geologic conditions.

(b) Potentially adverse environmental effects were identified during staff review of the development application.

(c) The PBID prepared an Initial Study pursuant to CEQA Guidelines Section 15063. The Initial Study identified potentially significant effects relating to archaeological resources and geologic conditions, but mitigation measures have been designed that avoid and/or mitigate the effects to less-than-significant levels. The Initial Study is on file in the office of PBID and is hereby incorporated by reference (File No. PLN030491). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

(d) A Mitigation Monitoring and Reporting Program has been prepared in accordance with Monterey County regulations and is designed to ensure compliance with conditions and mitigation measures during project implementation. The Applicant must enter into an “*Agreement to Implement a Mitigation Monitoring and Reporting Program*” as a condition of project approval (Condition 11).

(e) Evidence that has been received and considered include:

i. The application, plans, materials, and technical reports, which are listed under Section IX (References) of the Initial Study which are included herein by reference.

ii. Staff report that reflects the County’s independent judgment.

iii. Information and testimony presented during public hearings (as applicable).

(f) The Mitigated Negative Declaration was circulated for public review from February 18th to March 18th, 2004.

(g) The Monterey County Department of Planning and Building Inspection, (located at 2620 First Avenue, Marina, CA, 93933) is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based. Reports are in Project File No. PLN030491.

3. FINDING: NO VIOLATIONS – 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.

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: Preceding findings and supporting evidence.

5. FINDING: APPEALABILITY – The project, as approved by the Zoning Administrator, is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Sections 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey to adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approve said application for a Combined Development Permit as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 8th day of April, 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 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.