

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030642

A. P. # 241-131-005-000

In the matter of the application of
Hulphers (Carver & Schicketanz) (PLN030642)

FINDINGS & 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 for a test well, septic system, tree removal (10 oaks of less than 12" in diameter); associated grading (approximately 100 cu. yds. cut and 100 cu. yds. fill) within a drainage swale; and a Coastal Development Permit for development within 750 feet of an archaeological resource. The property is located at 124 Fern Canyon Road, Carmel, northerly of the intersection of Fern Canyon and Oak Roads, Carmel Highlands area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on July 8, 2004.

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

1. FINDING: CONSISTENCY, SITE SUITABILITY, AND ACCESS: The Carver + Schicketanz Combined Development Permit (PLN030642), 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 124 Fern Canyon Road, Carmel (Assessor's Parcel Number 241-131-005-000), northerly of the intersection of Fern Canyon and Oak Roads, Carmel Highlands area, Coastal Zone. The parcel is zoned "LDR/1 (CZ)" (Low Density Residential, 1 acre per unit, in the Coastal Zone). The test well and septic siting is physically suitable for the construction and use proposed. The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program.

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 project plans with percolation and groundwater studies to County agencies and the California Coastal Commission for review and comment. Comment was received from the California Coastal Commission on June 22, 2004, recommending that a Hydrogeologic report be prepared and requesting that "the County take into consideration the recommendations made in the periodic review" on the

issue of water supplies and private wells in the Cal-Am service area “before approving any further water use on the Carver + Schicketanz site.”

(c) An assessment of applicable setbacks (septic, well, and structural) has been made, to ensure that siting requirements are met. A rectangular building footprint (based on the maximum coverage allowed for the zoning district) was provided on the project plans for the purpose of establishing that the project is feasible in terms of compliance with health (septic, well), zoning (front, side(s), rear), and fire (State Responsibility Area) setbacks. The footprint is not intended to provide authorization of a building site or area for grading or clearing.

(d) The applicant has agreed to proceed with the application under this permit for use of the well for testing only, and the Division of the Environmental Health has recommended a condition for the project which addresses surface and subsurface drainage with respect to leach field installation.

(e) The Carmel Highlands / Unincorporated Land Use Advisory Committee recommended approval of the project by a vote of 7 to 0, with 0 abstaining, on April 19, 2004.

(f) Archeological Consulting letter dated July 2, 2004.

2. FINDING: POLICY CONSISTENCY: The proposed project, as conditioned, is consistent with Carmel Land Use Plan policies 2.4.4.A.1-2 and 2.4.4.B.1-3.

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 owner has applied for a permit to install septic facilities and to install a well for testing purposes.

(2) No County agencies have indicated that the proposed well construction, and proposed use of the well, would suffer a lack of adequate water for testing purposes.

(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.”

(1) The Planning and Building Inspection Department has recommended that a deed restriction be recorded against the property as a condition of approval, specifying terms of use of the well (as authorized by this permit) for disclosure to any future owner(s). A condition is also recommended which specifies that a Hydrogeologic report be prepared by a consultant deemed qualified by the County.

(c) Carmel Land Use Plan policies 2.4.4.B.1-3 state in part that “All dumping of spoils (dirt, garbage, refuse, etc.) into riparian corridors and other drainage courses should be prohibited” and “Adequate maintenance and repair of septic systems shall be required to limit pollution of surface waters and protect the public health.”

(1) The Division of Environmental Health (DEH) has recommended a condition that addresses surface and subsurface drainage with respect to leach field installation, and considers the area of proposed septic installation to be a swale, as opposed to a drainage course within the meaning of Carmel Land Use Plan policy.

(2) E-mail correspondence sent from the DEH to the Planning and Building Inspection Department, dated 5/04/2004 and 5/25/2004.

3. FINDING: CEQA (EXEMPT) -- The project, as conditioned, will not have a significant environmental impact, and is categorically exempt from the California Environmental Quality Act (CEQA).

EVIDENCE: (a) The Division of Environmental Health (DEH) sent correspondence to the project planner on February 18, 2004, stating that for a nearby property, there is “granite at 85 feet” and that “the water (is) located in fractured granite below this depth.” A Percolation and Groundwater Study was provided for the project by Grice Engineering, Inc., which identified “granite bedrock (...) at a depth of approximately 24 feet below grade.”

(b) The proposed well has been conditioned to allow for testing. No serious disturbance to an environmental resource will occur. Use of the well for hydrologic tests does not present the possibility of an exception to an exemption (Section 15300.2, 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). The condition requiring a Hydrogeologic report ensures compliance with CEQA under this categorical exemption.

(d) No expansion of use of the proposed well is authorized by the approval of this permit, and the septic field(s) with well installation and testing activity at the well site do not altogether present the possibility of a serious disturbance to an environmental resource, with conditions recommended by County agencies. Therefore, the project, as conditioned, will not have a significant environmental impact and is categorically exempt from CEQA.

(e) Evidence for Findings 1 and 2.

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, happiness, 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: 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 Monterey County Planning and Building Inspection Department records indicates that no violations exist on the subject property.

6. **FINDING: APPEALABILITY** - The project is appealable to the Board of Supervisors and 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 within appeal jurisdiction of the Coastal Commission.

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 following conditions:

1. The Carver + Schicketanz Combined Development Permit (PLN030642) allows for development on a legal lot of record (as shown on project plans received by the Planning and Building Inspection Department on May 3, 2004), and consists of a Coastal Administrative Permit for a test well, septic system, tree removal (10 oaks of less than 12” in diameter, in clusters), and associated grading (approximately 97 cu. yds. cut and 2 cu. yds. fill) within a drainage swale; and a Coastal Development Permit for development within 750 feet of an archaeological resource. Approval of the Permit would authorize construction and use of the well for testing. 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 124 Fern Canyon Road, Carmel (Assessor’s Parcel Number 241-131-005-000), northerly of the intersection of Fern Canyon and Oak Roads, 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)**

Prior to Issuance of Septic and Well Permit(s):

2. Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions," Central Coast Basin Plan, RWQCB. The septic system layout and design shall specifically address the protection of leach fields from both surface and subsurface drainage. **(Environmental Health)**
3. Prior to the issuance of a Building Permit obtain a Water Well Drilling Permit from the Division of Environmental Health and construct the well. **(Environmental Health)**

4. Within 30 days after the date of decision on this project (Carver + Schicketanz, PLN030642), the applicant shall record a deed restriction with the Monterey County Recorder for the project parcel stating the following:

“The well approved by PLN030642 is for test purposes only and is not approved for domestic purposes. No other use of the well is allowed without first obtaining such permits as may be necessary from Monterey County.”

(Planning and Building Inspection)

5. The applicant shall record a notice which states: "A permit (Resolution No. 030642) was approved by the Zoning Administrator for Assessor's Parcel Number 241-131-005-000 on July 8, 2004. The permit was granted subject to 5 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 8th 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.