

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 040780

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

In the matter of the application of  
**CHARLES & KAREN OSBORNE (PLN040780)**

**FINDINGS & DECISION**

to allow an Amendment to a previously approved Combined Development Permit in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of a previously approved Combined Development Permit (PLN020426) to add a Coastal Development Permit for the removal of two Monterey pines (22 and 30 inches in diameter); the tree removal is associated with the permitted construction of a new 1,365 sq. ft. first and second story addition to an existing two-story single family residence, located at 222 Highlands Drive, Carmel, Carmel Area Land Use Plan, came on regularly for meeting before the Zoning Administrator on February 24, 2005.

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

**1. FINDING: CONSISTENCY** – The Osborne Permit Amendment (PLN040780), as described in Condition #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 Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance).

**EVIDENCE:** (a) The application and plans submitted for the Permit Amendment and previously approved Combined Development Permit in project files PLN040780 and PLN020426 at the Monterey County Planning and Building Inspection Department.

(b) The property is 0.76 acres in size and is located at 222 Highland 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).

(c) The Carmel Unincorporated/Highlands Land Use Advisory Committee reviewed and recommended approval (5 - 1 vote) of the Permit Amendment on January 3, 2005 with a recommendation to monitor the tree replacement for establishment success. The LUAC comments are incorporated in the project design or have been met as part of the planning permit review process.

(d) 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.

(e) The project is consistent with policies of the Carmel Area Land Use Plan dealing with forest resources (Chapter 2.5). A Forest Management Plan (December 14, 2004) and subsequent Forest Evaluation (January 3, 2005) were prepared by Frank Ono for the project. According to the Plan and Evaluation, root loss of the 22 and 30 inch Monterey pines was caused by grading and construction activities for the addition. This root loss has undermined the structural integrity of the two trees and has created a hazard due to the potential for the

trees to fall and damage the existing residence. The removal of these two trees is recommended due to the infeasibility of cabling the trees to provide for structural support, unstable soil type, poor rooting habits, evidence of Pine Pitch Canker and potential for future construction impacts. The Plan recommends that the two trees be replaced with four (4) 5-gallon Monterey pines or four (4) 5-gallon Monterey cypress within the area immediately east of the addition and those areas with the greatest opening in the stand to allow for a minimum of competition and maximum sunlight. The health of the remaining trees should not be affected by development activities assuming that the Plan recommendations are followed. Conditions of approval will require adherence to the recommendations contained in the Forest Management Plan, implementation of tree protection and replacement measures and monitoring for establishment success.

2. **FINDING: LANDMARK TREE REMOVAL** – An exception may be granted for the removal of a tree that is 24 inches or greater in diameter (measured at breast height) since no alternatives to development such as resiting, relocation or reduction in development area exists whereby the tree removal can be avoided.

**EVIDENCE:** (a) The project consists of the removal of 1 Monterey pine measuring 30 inches in diameter at breast height. According to the Forest Management Plan prepared by Frank Ono (December 14, 2004), the roots for the 30 inch Monterey pine have been compromised to a point where the structural integrity has been undermined and has created a hazard due to the potential for the tree to fall and damage the existing residence. Other alternatives to tree removal were examined, including tree cabling, but were found to be infeasible in order to avoid removal. The tree removal would still be necessary even if the addition was relocated or resized. Every reasonable attempt to limit tree removal has been made and is represented in this Plan. Staff concurs with the analysis contained in the Forest Management Plan and concludes that there is no alternative to development whereby the tree removal can be avoided.

(b) The application and plans submitted in project file PLN040780 at the Monterey County Planning and Building Inspection Department.

3. **FINDING: SITE SUITABILITY** – The site is suitable for the use proposed.

**EVIDENCE:** (a) The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, 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 site is not suitable. Conditions recommended by these agencies have been incorporated as project conditions.

(b) The project planner conducted site visits on July 16, 2003 and September 30, 2003 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

- 4. FINDING: PUBLIC ACCESS** – 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. 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 subject property is 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.  
(b) Staff site visits on July 16, 2003 and September 30, 2003.
- 5. FINDING: CEQA (Exempt)** – The proposed project will not have a significant environmental impact.
- EVIDENCE:** (a) Section 15301(e) of the CEQA Guidelines categorically exempts the proposed development from environmental review. The proposed tree removal, as associated with the addition, qualifies for this categorical exemption since it falls into the class of small projects involving new construction of small structures with negligible or no expansion of an existing use.  
(b) No adverse environmental impacts were identified during staff review of the project application.  
(c) There are no unusual circumstances related to the project or property.
- 6. FINDING: NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.
- EVIDENCE:** 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 indicate that no violations exist on subject property.
- 7. 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:** Preceding findings and supporting evidence.
- 8. FINDING: APPEALABILITY** – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.
- EVIDENCE:** Sections 20.86.030 and 20.86.080 of Title 20 Zoning Ordinance (Part 1 of the Monterey County Coastal Implementation Plan).

## **DECISION**

It is the decision of the Zoning Administrator of the County of Monterey that said application for an amendment to a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

**PASSED AND ADOPTED** this 24th day of February 2005.

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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 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 Marina.

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

Monterey County Planning and Building Inspection  
Condition Compliance & Mitigation Monitoring and/or Reporting Plan

**Project Name:** Osborne

**File No:** PLN040780

**APN:** 241-156-003-000

**Approval by:** Zoning Administrator **Date:** February 24, 2005

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Impact Addressed, and Responsible Land Use Department</i>   | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i> | <i>Responsible Party for Clearing Condition</i> | <i>Timing</i>   | <i>Verification of compliance</i> |
|----------------------------|----------------------|--|--|---|---|-----------------------------------|
| 1                          |                      | <p><b>PBD029 - SPECIFIC USES ONLY</b><br/>                     The Osborne Amendment (PLN040780) amends a previously approved Combined Development Permit (PLN020426) to add a Coastal Development Permit for the removal of two Monterey pines (22 and 30 inches in diameter). The tree removal is associated with the permitted construction of a new 1,365 sq. ft. first and second story addition to an existing two-story single-family residence. The property is located at 222 Highlands Drive, Carmel (Assessor's Parcel Number 241-156-003-000), Carmel Highlands area, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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. <b>(Planning and Building Inspection)</b></p> | Adhere to conditions and uses specified in the permit.   | Owner/<br>Applicant                             | Ongoing unless otherwise stated                           |                                   |
| 2                          |                      | <p><b>PBD025 - NOTICE-PERMIT APPROVAL</b><br/>                     The applicant shall record a notice which states: "A permit (Resolution No. 040780) was approved by the Zoning Administrator for Assessor's Parcel Number 241-156-003-000 on February 24, 2005. The permit was granted subject to 10 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</p>   | Proof of recordation of this notice shall be furnished to PBI.   | Owner/<br>Applicant                             | Prior to final building inspection or commencement of use |                                   |

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Impact Addressed, and Responsible Land Use Department</i>  | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i> | <i>Responsible Party for Clearing Condition</i> | <i>Timing</i>                      | <i>Verification of compliance</i> |
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|                            |                      | recording of this notice shall be furnished to the Director of Planning and Building Inspection prior to final building inspection or commencement of the use. <b>(Planning and Building Inspection)</b>  |  |   |                                    |                                   |
| 3                          |                      | <b>COMBINED DEVELOPMENT PERMIT CONDITIONS</b><br>The applicant shall adhere to the conditions of approval contained in the Combined Development Permit as approved by the Zoning Administrator under Resolution No. 020426. <b>(Planning and Building Inspection)</b>   | Adhere to conditions and uses specified in the permit.   | Owner/<br>Applicant                             | Ongoing unless otherwise stated    |                                   |
| 4                          |                      | <b>NOTICE-FOREST MANAGEMENT PLAN</b><br>The applicant shall record a notice which states: "A Forest Management Plan has been prepared for this parcel by Frank Ono, dated December 14, 2004, and is on record in the Monterey County Planning and Building Inspection Department Library. All tree removal and replacements on the parcel must be in accordance with this Forest Management Plan, as approved by the Director of Planning and Building Inspection." The notice must be recorded prior to final building inspection. <b>(Planning and Building Inspection)</b>   | Proof of recordation of this notice shall be furnished to PBI.   | Owner/<br>Applicant                             | Prior to final building inspection |                                   |
| 5                          |                      | <b>TREE PROTECTION (NON-STANDARD)</b><br>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, staging areas and grading limits shall be reviewed and established periodically by the contractor in consultation with a County-approved forester or arborist throughout the duration of construction and grading activities. Said protection shall be demonstrated in the form of a letter from a County-approved forester or arborist prior to final building inspection. <b>(Planning and Building Inspection)</b> | Submit evidence of tree protection in the form of a letter from a County-approved forester or arborist to PBI for review and approval.     | Owner/<br>Applicant                             | Prior to final building inspection |                                   |

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Impact Addressed, and Responsible Land Use Department</i>   | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>  | <i>Responsible Party for Clearing Condition</i> | <i>Timing</i>                      | <i>Verification of compliance</i> |
|----------------------------|----------------------|--|---|---|------------------------------------|-----------------------------------|
| 6                          |                      | <b>TREE REPLACEMENT (NON-STANDARD)</b><br>The applicant shall implement tree replacement in accordance with the recommendations contained in the Forest Management Plan prepared by Frank Ono, dated December 14, 2004. Said implementation shall be demonstrated in the form of photos and a letter from a County-approved forester or arborist prior to final building inspection. <b>(Planning and Building Inspection)</b>   | Submit evidence of tree replacement in the form of photos and a letter from a County-approved forester or arborist to PBI for review and approval.  | Owner/<br>Applicant                             | Prior to final building inspection |                                   |
| 7                          |                      | <b>TREE MONITORING (NON-STANDARD)</b><br>The applicant shall arrange for tree replacement planting to be monitored for establishment success one year after project completion. Establishment success shall be 100%. If tree replacement planting is not successful, the applicant shall arrange for additional tree planting and follow up monitoring to occur. Said monitoring shall be demonstrated in the form of photos and a letter from a County-approved forester or arborist. <b>(Planning and Building Inspection)</b>   | Submit monitoring evidence in the form of photos and a letter from a County-approved forester or arborist to PBI for review and approval.   | Owner/<br>Applicant                             | One year after project completion  |                                   |
| 8                          |                      | <b>PBD030 - STOP WORK - RESOURCES FOUND</b><br>If cultural, archaeological, 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 a qualified professional archaeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. <b>(Planning and Building Inspection)</b> | Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. | Owner/<br>Applicant/<br>Archaeologist           | Ongoing                            |                                   |
| 9                          |                      | <b>PBD018(A) - LANDSCAPE MAINTENANCE (SINGLE FAMILY DWELLING ONLY)</b><br>All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. <b>(Planning and Building Inspection)</b>  | All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.   | Owner/<br>Applicant                             | Ongoing                            |                                   |



| <i>Permit<br/>Cond.<br/>Number</i> | <i>Mitig.<br/>Number</i> | <i>Impact Addressed, and Responsible Land Use Department</i>   | <i>Compliance or Monitoring Actions<br/>to be performed. Where applicable, a<br/>certified professional is required for<br/>action to be accepted.</i> | <i>Responsible<br/>Party for<br/>Clearing<br/>Condition</i> | <i>Timing</i> | <i>Verif-<br/>ication<br/>of comp-<br/>liance</i> |
|------------------------------------|--------------------------|--|--|---|---------------|---|
| 10                                 |                          | <b>PBD014 - GRADING-WINTER RESTRICTION</b><br>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. ( <b>Planning and Building Inspection</b> ) | None   | Owner/<br>Applicant   | Ongoing       |   |