JEFF MAIN ZONING ADMINISTRATOR

STATE OF CALIFORNIA COUNTY OF MONTEREY

RESOLUTION NO. 070097

A.P.N. #: 007-262-004-000

FINDINGS AND DECISION

In the matter of the application for Miller Investors LLC (DA070097)

for a **Design Approval**, in accordance with Title 21, Chapter 21.74 of the Monterey County Code, to allow the construction of a new 3,252 square foot two-story single family dwelling with a 589 square foot attached garage, an 81 square foot covered entry porch, 123 square foot covered entry, 379 square foot covered loggias, an 1,120 square foot covered gallery, 119 square foot covered patio, and removal of twenty-three (23) Monterey Pine trees. The property is located at 2971 Cormorant Road, Pebble Beach (Assessor's Parcel Number 007-262-004-000), Greater Monterey Peninsula Area, and came on regularly for hearing before the Zoning Administrator on September 13, 2007

FINDINGS OF FACT

- 1. FINDING: CONSISTENCY The project, as described in Condition No.1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, Greater Monterey Peninsula Area Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.
 - **EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The property is located at 2971 Cormorant Road, Pebble Beach (Assessor's Parcel Number 007-262-004-000), Greater Monterey Area Plan. The parcel is zoned Medium Density Residential with Building Site, Design Control, and Parking and Use of Major Recreational Equipment Storage Overlays ("MDR/B-6-D-RES"). The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21, and is therefore suitable for the proposed development.
 - (c) The project planner conducted a site inspection on June 27, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File DA070097.
- 2. **FINDING:** SITE SUITABILITY The site is physically suitable for the use proposed.
 - **EVIDENCE:** (a) Technical reports by outside biologist, archaeologist, and Forester indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:
 - "Biological Report" (LIB070370) prepared by Jeffrey B. Froke, Ph.D California Wildlife Ecologist, dated, June 20, 2007.
 - " "Preliminary Archaeological Reconnaissance" (LIB070368) prepared by Archaeological Consulting, dated, February 14, 2007.

- "Forest Management Plan" (LIB070369) prepared by Forest City Consulting, dated, August 6. 2006 and April 2, 2007.
- (b) Staff conducted a site inspection on June 27, 2007 to verify that the site is suitable for this use.
- (c) Materials in Project File DA070097.
- 3. FINDING: CEQA (Mitigated Negative Declaration): The project, as conditioned and mitigated, will not have a significant environmental impact. On the basis of the whole record there is no substantial evidence to support a fair argument that the proposed project as designed and mitigated may have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.
- 4. EVIDENCE: (a) The project is not exempt from environmental review and requires an Initial Study (IS) (CEQA Guidelines Section 15063). The primary CEQA issue involves biological resources, the removal of twenty-three (23) Monterey pines. The extent of issue is limited in scope since the proposed project consists of the construction of a single family dwelling. This type of activity is normally exempt under CEQA. The Monterey Pine is listed as 1B.1 under California Department of Fish and Game Natural Diversity Database. List 1B species are plants that are rare, threatened, or endangered in California or elsewhere. Evidence in the initial study supports the conclusion that impacts will be less than significant with mitigation incorporated for biological resources and less than significant level through a pre-construction raptor survey, tree protection, invasive species eradication and tree replacement.
 - (b) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Mitigated Negative Declaration (MND). This IS/MND is on file in the office of the Monterey County RMA, Planning Department is hereby incorporated by reference. (DA070097).
 - (c) The IS/MND was circulated for public review from August 9, 2007 to August 30, 2007. There were no substantive comments received, and no other comments were received during the public review period from the State Clearinghouse or other County land use departments/agencies.
 - (d) Evidence that has been received and considered includes, but is not limited to the following:
 - 1. Biological Report (LIB070370) prepared by Jeffrey B. Froke, Ph. D., California Wildlife Ecology, Pebble Beach, CA, June 20, 2007 concluded the site supports no special-status species, whether plant or animal, or vegetative community of special interest and protective value, including Monterey Pine Forest; and therefore, development of the site for construction of a new single-family residence will not disrupt or diminish any of said special-status or special-interest natural resources.
 - 2. Forest Management Plan (LIB070369) prepared by Forest City Consulting, Carmel, CA, August 6, 2006 and April 2, 2007.
 - (e) No adverse environmental effects were identified during staff review of the development application during a site visit on June 27, 2007.
 - (f) Mitigations 1, 2 and 3.

(g) See preceding and following findings and supporting evidence.

- 5. 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. Zoning violation abatement costs, if any, have been paid.
 - **EVIDENCE:** (a) Staff reviewed Monterey County RMA Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.
- 6. 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) Preceding findings and supporting evidence.
- 7. FINDING: APPEALABILITY The decision on this project is appealable to the Monterey County Planning Commission.

EVIDENCE: Section 21.44.070 Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of the Zoning Administrator of the County of Monterey that the Mitigated Negative Declaration and Program for Mitigation Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Design Approval be granted as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 13th day of September, 2007.

ONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON OCT 3 | 2007

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE NOV 10 2007

This decision, <u>if this is the final administrative decision</u>, 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 Salinas.

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

Resource Management Agency – Building Services Department	Project Name: <i>Miller Investors LLCS</i> File No : DA070097	APNs: <u>007-262-004-000</u>
Condition Compliance & Mitigation Monitoring and Reporting Plan	Approval by: Zoning Administrator	Date: September 13, 2007

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

Permit Cond. Number	Conditions of Approval and or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted:	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	PD001 - SPECIFIC USES ONLY This Design Approval (DA070097) allows the construction of a new 3,252 square foot two-story single family dwelling with 589 square foot attached garages, an 81 square foot covered entry porch, 123 square foot covered entry, 379 square foot covered loggias, an 1,120 square foot covered gallery, 119 square foot covered patios, and removal of twenty-three (23) Monterey Pine trees. The property is located at 2971 Cormorant Road, Pebble Beach (Assessor's Parcel Number 007-262-004-000), Greater Monterey Peninsula Area. 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 the RMA - Planning Department. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

			· · · · ·		
2.	PBD025 - NOTICE-PERMIT APPROVALThe applicant shall record a notice which states: "A permit(Resolution No. 070097) was approved by the ZoningAdministrator for Assessor's Parcel Number 007-262-004-000on September 13, 2007. The permit was granted subject to 15conditions of approval, which run with the land. A copy of thepermit is on file with the Monterey County RMA - PlanningDepartment." Proof of recordation of this notice shall befurnished to the Director of RMA - Planning Department priorto issuance of building permits or commencement of the use.(RMA - Planning Department)	Proof of recordation of this notice shall be furnished to RMA - PD	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3.	PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT If, during the course of construction, 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 RMA - Planning 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. (RMA - Planning Department)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning 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/ Applicant/ Archaeo- logist	Ongoing	
4.	PD007 - GRADING-WINTER RESTRICTION No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services Department. (RMA – Planning Department and Building Services Department)	Obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.	Owner/ Applicant	Ongoing	
5.	PD010 - EROSION CONTROL PLAN AND SCHEDULE The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of RMA – Planning and Director of Building Services. All cut and/or fill slopes	Evidence of compliance with the Erosion Control Plan shall be submitted to the RMA - Planning Department and the RMA - Building Services Department prior to issuance of building and grading	Owner/ Applicant	Prior to the issuance of grading and building permits	

Miller Investors LLC (DA070097) Page 6

¢

	exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of RMA - Planning and Director of RMA - Building Services. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of RMA - Planning and Director of RMA - Building Services. (RMA - Planning Department and RMA - Building Services Department)	permits. Comply with the recommendations of the Erosion Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and Director of RMA - Building Services.	Owner/ Applicant	Ongoing
		Evidence of compliance with the Implementation Schedule shall be submitted to the RMA - Planning Department and the RMA - Building Services Department	Owner/ Applicant	Prior to final inspection
6.	PD011 – TREE AND ROOT PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with	Submit evidence of tree protection to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and/or building permits
	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. Said protection, approved by a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – Director of	Submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.	Owner/ Applicant/ Arborist	During Construc- tion
	Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by a certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits.(RMA - Planning Department)	Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection

.

		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/ Applicant	Ongoing	
7.	PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	
	submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The	The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Ongoing	
	lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)	The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Ongoing	
8.	PD041 – HEIGHT VERIFICATION The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA-Building Services	 The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection 	Owner/ Applicant	Prior to the issuance of grading or building permits	
	Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (RMA – Planning Department and Building Services Department)	2) The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.	Owner/ Applicant/ Engineer	Prior to the final inspection	

.

9.	PD043 – GRADING PERMITS REQUIRED A grading permit is required for new private single family access driveways greater than fifty (50) feet in total length that require 100 cubic yards or more of earthwork. An over the counter (OTC) grading permit may be issued for new private single family access driveways greater than fifty (50) feet in total length that require less than 100 cubic yards of earthwork (RMA – Planning Department and Building Services Department)	If applicable, apply and receive the appropriate grading permit from Monterey County RMA – Building Services Department.	Owner/ Applicant/ Engineer	Prior to the issuance of grading or building permits	
		Evidence of compliance with the Implementation Schedule shall be submitted to the RMA - Planning Department and the RMA - Building Services Department	Owner/ Applicant	Prior to final inspection	
10.	PD012(A) - LANDSCAPE PLAN AND MAINTENANCE (SINGLE FAMILY DWELLING ONLY) The site shall be landscaped. At least three (3) weeks prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning Department. 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. (RMA – Planning Department)	Submit landscape plans and contractor's estimate to the RMA - Planning Department for review and approval. 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	Owner/ Applicant/ Licensed Landscape Contractor/ Licensed Landscape Architect	At least three (3) weeks prior to final inspection or occupancy Ongoing	

11.		PD005 - FISH AND GAME FEE-NEG DEC/EIR Pursuant to the State Public Resources Code § 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA -	The applicant shall submit a check \$1,800, payable to the <i>County of</i> <i>Monterey</i> , to the Director of the RMA - Planning Department.	Applicant	Within 5 working days of project approval.
		Planning Department)	If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the <i>County</i> <i>of Monterey</i> , to the Director of the RMA - Planning Department.	Applicant	Prior to the recordation of the final/parcel map, the start of use or the issuance of building or grading permits
12.		PD006 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department)	 Enter into agreement with the County to implement a Mitigation Monitoring Program. Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement. 	Owner/ Applicant	Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first.
13.	1	A pre-construction raptor survey shall be prepared by a County-approved biological consultant prior to the initiation of development activities. If active raptor nests are found, the biologist shall determine if construction development activities would impact the nest or have the potential to cause abandonment, if so, development activities shall be not start until the raptor young have fledged as determined	raptor survey shall be submitted to the	Owner/ Applicant/ Biologist	Prior to Issuance of building or grading permit

		by the consulting biologist, through monitoring of the nest. Once the raptor young have fledged, development activities may resume. (RMA - Planning Department)				
14.	2.	Prior to construction activities, clearing or grading, the applicant shall provide three copies of a tree replacement plan to be prepared and implemented by a County-approved forester or arborist. Any native trees removed shall be replaced on the site at a rate of one tree of the same variety for each tree removed, except where it is demonstrated that a 1:1 replacement ratio will result in an overcrowded, unhealthy environment. If the replanting can not occur on the subject site, then the applicant shall enter into an agreement with the Del Monte Forest Foundation to develop a reforestation plan on a site within the Indian Village Subdivision. The agreement would include language that would allow the Del Monte Forest Foundation to gather pine cones, seedling and saplings on the Miller site prior to any clearing or grading activities, contribute monetarily for the replanting of the pines and to develop a succession criteria. According to the Forest Management Plan, the total amount of native trees proposed for removal is 23. The forester or arborist shall specify recommended planting areas and numbers by species. In addition, the tree replacement plan shall include an eradication component for invasive species on the property, which include Iceplant. Eradication of the invasive species in this area will allow the native habitat to reestablish and recover. (RMA - Planning Department)	 Prior to construction activities, clearing or issuance of a grading or building permit, a tree replacement plan shall be submitted to the Director of Planning and Building Inspection for review and approval. If required, prior to construction activities, clearing or issuance of a grading or building permit provide a copy of an agreement between the property owner and the Del Monte Forest Foundation to replant the 23 Monterey Pines to be removed on the Miller site for the approval of the Director of Planning. Prior to final building inspection/occupancy, the tree replacement plan shall be implemented and shall be subject to the approval of the Director of Planning and Building Inspection. 	Owner/ Applicant/ Forester	Prior to construction activities, clearing or the issuance of building or grading permit	
15.	3.	Protective fencing and grading limits shall be reviewed and established by the contractor in consultation with a qualified forester or arborist and the Director of Planning prior to excavation operation or construction activities. (RMA - Planning Department)	Prior to the issuance of a grading or building permit, evidence of adequate protection shall be submitted to the Director of Planning and Building Inspection for review and approval. Accompanying this evidence shall be a letter from a County-approved forester or arborist which states that the protection follows the recommendations made in the Forest Management Plan prepared for the site by Forest City Consulting, dated April 2, 2007. Prior	Owner/ Applicant/ Forester	Prior to issuance of grading and building permit	

to final building inspection/occupancy, a letter from a County-approved forester or arborist shall be submitted to the Director of Planning and Building Inspection which states that construction	
and grading operations did not impact the retained trees. Any impacts shall require additional mitigation in accordance with a revised forest management plan and a revised tree replacement plan and shall be subject to the approval of the Director of Planning and Building Inspection.	

END OF CONDITIONS

