PLANNING COMMISSION COUNTY OF MONTEREY, STATE OF CALIFORNIA

RESOLUTION NO. 08002

A. P. # 241-182-012-000

In the matter of the application of

FINDINGS AND DECISION

Richard S. and Patricia D. Stoltz (PLN070359)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval for the renovation of a single family dwelling to add 2,550 square feet, and the renovation of a detached two-car garage; 2) a Coastal Development Permit to allow development within 50 feet of a bluff; 3) a Coastal Development Permit to allow development within a positive archaeological buffer zone; and 4) a Coastal Waiver to allow the removal of one planted Monterey Cypress. The property is located at 241 Highway One, Carmel Highlands, Carmel Area Land Use Plan, and came on regularly for hearing before the Planning Commission on January 9, 2008.

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

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, Carmel Area Land Use Plan (LUP), Monterey County Zoning Ordinance (Title 20) Part 1, and Monterey County Zoning Ordinance (Title 20) Part 4 (Coastal Implementation Plan for the Carmel Area), 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. As proposed and conditioned, 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) <u>Project Site</u>. The property is located at 241 Highway One (Assessor's Parcel Number 241-182-012-000), Carmel Highlands, Carmel Area LUP, Coastal Zone. The project site is zoned Low Density Residential (LDR). Therefore, the property is suitable for the proposed development, consisting of the renovation of and addition to an existing single family residence.
 - (c) <u>Tree Removal</u>. The project includes a Coastal Waiver for the removal of one planted Monterey Cypress in accordance with the applicable policies of the Carmel Area LUP and the Monterey County Zoning Ordinance (Title 20, Part 4). (See Finding #6)
 - (d) Public Access. See Finding #7.
 - (e) Visual Resources/Public Viewshed. The project site is within the Point Lobos public viewshed. The applicable sections of the Carmel Area LUP have been reviewed, and the project is consistent with the subject policies. The LUP Visual Resources Key Policy 2.2.2 directs that all new development within the viewshed harmonize and be subordinate to the natural scenic character of the area. LUP Policy 2.2.3.1 also directs that the design of structures shall not detract from the natural beauty of the public viewshed, and LUP Policy

- 2.2.3.6 further states "Structures shall be subordinate to and blended into the environment, using appropriate materials to that effect. Where necessary, modification of plans shall be required for siting, structural design, color, texture, building materials, access, and screening." (see also LUP Policy 2.2.4.10.c) In addition, the LUP Policy 2.2.4.9 directs that "To protect both scenic quality and visual access....landscaping plans shall also be required and approved by the County...." The project, as proposed, is clearly subordinate to the natural and scenic character of the area. The proposed design, colors, and materials will blend with the surrounding environment, nor detract from the public viewshed, and the existing landscape screening will further obscure the view of structures from the public viewshed. The property is heavily landscaped, and all existing landscaping is planned for retention. Therefore, a condition requiring a landscape plan is not required for this project. In addition, the existing structures are not visible from Highway One, nor from any vista points along Highway One.
- (f) The project includes a Coastal Development Permit to allow development within 50 feet of a coastal bluff. Monterey County Zoning Ordinance Section 20.70.120.A.1 requires a Coastal Development Permit for improvements to a single family structure within 50 feet of a coastal bluff edge because they involve risk of environmental impact, and Carmel Area LUP Hazards Policy 2.7.4 directs all development to be sited and designed to conform to site topography and to minimize grading. In addition, Carmel Area LUP Environmentally Sensitive Habitats Policy 2.3.3.7 directs that land disturbance and removal of vegetation shall be limited to only the amount needed for structural improvements. The land disturbance required for the proposed work is the minimum necessary for the structural improvements. The majority of the renovation work will occur on the existing developed footprint, and all of the increase in building site coverage which impacts or touches the ground will occur on the landward side of the existing structure, away from the ocean bluff. The project, as proposed, is consistent with applicable policies regarding hazards (LUP Policy 2.7.4) and protection of sensitive areas (LUP Policy 2.3.3.7).
- (g) The project planner conducted site inspections on July 18 and October 16, 2007, to verify that the project on the subject parcel conforms to the plans listed above.
- (h) The project was referred to the Carmel Highlands Land Use Advisory Committee (LUAC) for review. The LUAC, at its meeting on November 5, 2007, recommended project approval by a vote of 5-0.
- (i) 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 PLN070359.
- 2. **FINDING: SITE SUITABILITY** The site is physically suitable for the use proposed.
 - EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and the Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - (b) Technical reports by outside engineering, biological, and archaeological consultants did not identify physical or environmental constraints that would indicate the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:

- "Geotechnical Site Reconnaissance" (LIB070472), prepared by Haro, Kasunich, and Associates, 22 October, 1999.
- ii. "Cultural Resource Evaluation" (LIB070473), prepared by Archaeological Resource Management, May 31, 2000.
- iii. "Biological & Arborecological Report" (LIB070474), prepared by Jeffrey B. Froke, PhD, 3 October, 2007.
- iv. "Biological Report" (LIB070475), prepared by Jeffrey B. Froke, PhD, 27 June,
- (c) Staff conducted site inspections on July 18 and October 16, 2007, to verify that the site is suitable for this use.
- (d) Materials in Project File PLN070359.
- 3. FINDING: CEQA (Exempt): The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
 - EVIDENCE: (a) California Environmental Quality Act (CEOA) Guidelines Section 15301(a), Class 1 categorically exempts the minor alteration of existing private structures and topographical features involving negligible expansion of use beyond that existing at the time of the lead agency's determination.
 - (b) No adverse environmental effects were identified during staff review of the project application and during site-visits on July 18 and October 16, 2007.
 - (c) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN070359.
 - (d) Materials and technical reports in Project File PLN070359.
- 4. 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: Staff reviewed Monterey County RMA Planning Department and Building Services Department records and is not aware of any violations existing on the subject property.
- 5. 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.
 - (b) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN070359.
- 6. FINDING: TREE REMOVAL - The project includes a Coastal Waiver for the removal of one, planted Monterey Cypress. The required finding in order to grant the waiver for tree removal has been met.

- EVIDENCE: (a) The Monterey County Zoning Ordinance Title 20, Part 4 (Coastal Implementation Plan for the Carmel Area Land Use Plan), Section 20.146.060.A.1 states an exception (i.e., waiver) to the requirement for a tree removal permit may be granted if the tree removed is non-native or planted. The tree proposed for removal is a planted tree, per the technical reports submitted for the project. The following technical reports have been prepared:
 - i. "Biological & Arborecological Report" (LIB070474), prepared by Jeffrey B. Froke, PhD, 3 October, 2007.
 - ii. "Biological Report" (LIB070475), prepared by Jeffrey B. Froke, PhD, 27 June, 2007.

Per a phone conversation with the consultant on December 27, 2007, the consultant determined the tree is planted based on the following observations: The approximate age of the trees is consistent with the existing structures. Also, the spacing of the trees indicates that the trees may have been part of the original landscape plan for the property. In addition, the location of the tree designated for removal (i.e., on a flattened rocky area) is not normally consistent with native Monterey cypress habitat.

- (b) Furthermore, the tree removal will not result in additional exposure of the structures in the viewshed (Section 20.146.060.D.2 CIP), the tree proposed for removal is not a landmark tree (Section 20.146.060.D.1 CIP) based on staff site visits, and its removal is the least amount necessary for the proposed development (Section 20.146.060.D.3 CIP).
- (c) Although not required per applicable policies, the applicant's have voluntarily planted additional trees on the property. In addition, the property presently holds another 49 planted and established Monterey Cypress.
- (d) Site visits conducted by the project planner on July 18 and October 16, 2007.
- (e) Materials and technical reports in Project File PLN070359.
- 7. FINDING: PUBLIC ACCESS The project is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (Monterey County Zoning Ordinance, Section 20.70.050.B.4). The proposed project is in conformity with the public access policies of Chapter 5.3 of the Carmel Area Land Use Plan, and Section 20.146.130 of the Monterey County Zoning Ordinance (Part 4 Coastal Implementation Plan).
 - **EVIDENCE:** (a) Figure 3 (Public Access) of the Carmel Area LUP identifies the area of this property as "Inappropriate for beach access." No public access points or trails are located in the immediate area.
 - (b) Materials in Project File PLN070359.
 - (c) Site visits by the project planner on July 18 and October 16, 2007.
- 8. **FINDING:** APPEALABILITY The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.
 - **EVIDENCE:** (a) Board of Supervisors: Section 20.86.020 of the Monterey County Zoning Ordinance.
 - (b) California Coastal Commission: Section 20.86.080 of the Monterey County Zoning Ordinance.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 9th day of January, 2008, by the following vote:

AYES:

Errea, Brown, Isakson, Padilla, Ottone, Rochester, Diehl, Sanchez, Vandevere

NOES:

None

ABSENT:

Salazar

A COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

JAN 2 2 2008

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 FFB - 1 2008

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 FOR FURTHER INFORMATION, CONTACT THE COASTAL THE COASTAL COMMISSION. 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 Salinas.

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

Monterey County Resource Management Agency Planning Department

Condition Compliance and/or Mitigation Monitoring Reporting Plan **Project Name: Richard and Patricia Stoltz**

File No.: PLN070359

APN: 241-182-012-000

Approved by: Planning Commission

Date: January 9, 2008

*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	Mittig: 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)
1.		PD001 - SPECIFIC USES ONLY	Adhere to conditions and uses	Owner/	Ongoing	
		This Combined Development Permit	specified in the permit.	Applicant	unless	
		(PLN070359) allows the renovation of a single		i i	otherwise	
		family dwelling and detached garage, including			stated	
		the addition of 2,550 square feet, the removal of		<u> </u>		
		one planted Monterey Cypress tree, development				
		within 50 feet of a coastal bluff, and development				·
		within a positive archaeological buffer zone.	·			
j		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				

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	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				
1	by the County and the County shall bear ultimate				
	responsibility to ensure that conditions and				
	mitigation measures are properly fulfilled.				
	(RMA - Planning Department)				
2.	PD002 - NOTICE-PERMIT APPROVAL	Proof of recordation of this notice	Owner/	Prior to the	
	The applicant shall record a notice which states:	shall be furnished to the RMA -	Applicant	issuance of	
	"A permit (Resolution PLN08002) was approved	Planning Department.		grading and	
	by the Planning Commission for Assessor's			building	
	Parcel Number 241-182-012-000, located at 241			permits or	
	Highway One, on January 9, 2008. The permit			commence-	
	was granted subject to eleven (11) conditions of			ment of	
	approval which run with the land. A copy of the			use.	
•	permit is on file with the Monterey County RMA				
	- Planning Department." Proof of recordation of				
	this notice shall be furnished to the Director of				
	the RMA - Planning Department prior to				
	issuance of building permits or commencement				
	of the use. (RMA - Planning Department)				
3.	PD003(A) – CULTURAL RESOURCES –	Stop work within 50 meters (165	Owner/	Ongoing	
	NEGATIVE ARCHAEOLOGICAL	feet) of uncovered resource and	Applicant/		
1	REPORT	contact the Monterey County RMA -	Archaeo-		
	If, during the course of construction, cultural,	Planning Department and a qualified	logist		
	archaeological, historical or paleontological	archaeologist immediately if cultural,			
	resources are uncovered at the site (surface or	archaeological, historical or			
	subsurface resources) work shall be halted	paleontological resources are	·		
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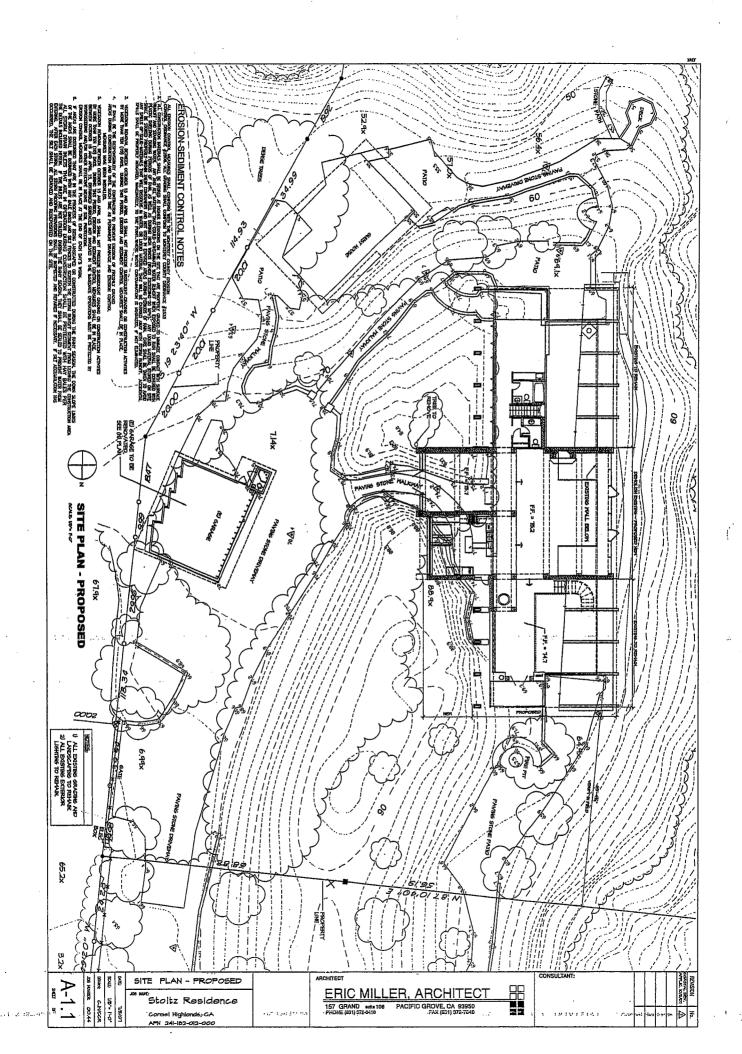
	immediately within 50 meters (165 feet) of the	uncovered. When contacted, the			
	find until a qualified professional archaeologist	project planner and the archaeologist			
	can evaluate it. The Monterey County RMA -	shall immediately visit the site to			
	Planning Department and a qualified	determine the extent of the resources			
	archaeologist (i.e., an archaeologist registered	and to develop proper mitigation			
	with the Society of Professional Archaeologists)	measures required for the discovery.			·
	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)				
4.	PD004 - INDEMNIFICATION	Submit signed and notarized	Owner/	Upon	
	AGREEMENT	Indemnification Agreement to the	Applicant	demand of	
	The property owner agrees as a condition and in	Director of RMA – Planning		County	
	consideration of the approval of this discretionary	Department for review and signature		Counsel or	
	development permit that it will, pursuant to	by the County.		concurrent	
	agreement and/or statutory provisions as			with the	
	applicable, including but not limited to	Proof of recordation of the		issuance of	·
	Government Code Section 66474.9, defend,	Indemnification Agreement, as		building	
	indemnify and hold harmless the County of	outlined, shall be submitted to the		permits, use	
	Monterey or its agents, officers and employees	RMA – Planning Department.		of the	
	from any claim, action or proceeding against the			property,	
	County or its agents, officers or employees to			filing of the	
	attack, set aside, void or annul this approval,			final map,	
	which action is brought within the time period			whichever	
	provided for under law, including but not limited			occurs first	
1	to, Government Code Section 66499.37, as	!]	and as	
	applicable. The property owner will reimburse			applicable	
	the county for any court costs and attorney's fees				
	which the County may be required by a court to				
	pay as a result of such action. County may, at its				

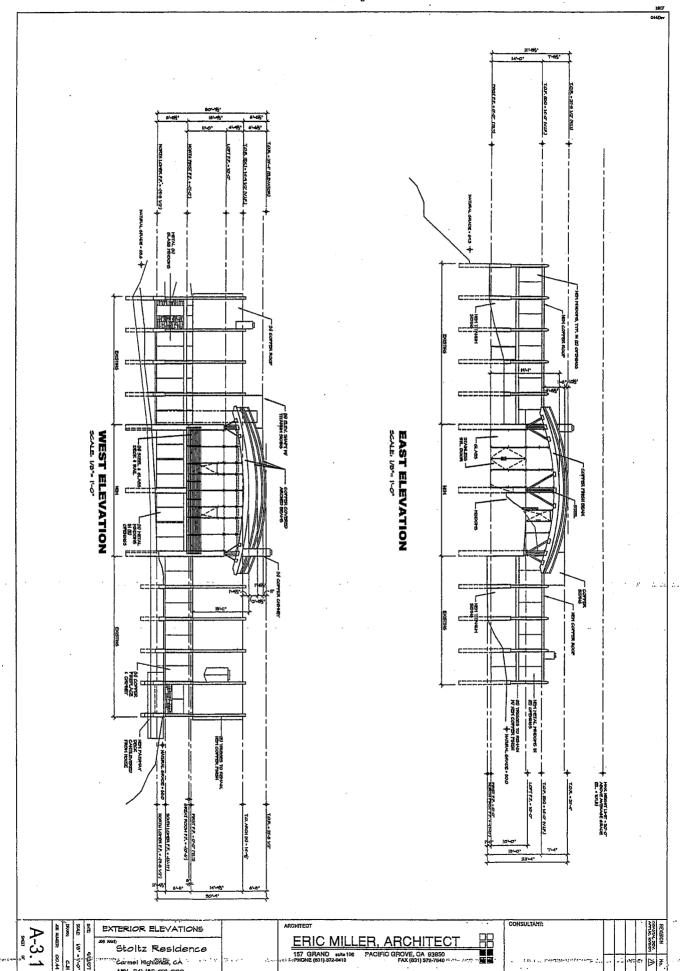
	sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county				
	harmless. (RMA - Planning Department)				
5.	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	
6.	PD009 - GEOTECHNICAL CERTIFICATION Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (RMA – Planning Department and Building Services Department)	Submit certification by the geotechnical consultant to the RMA – Building Services Department showing project's compliance with the geotechnical report.	Owner/ Applicant/ Geotech- nical Consultant	Prior to final inspection	
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	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.	

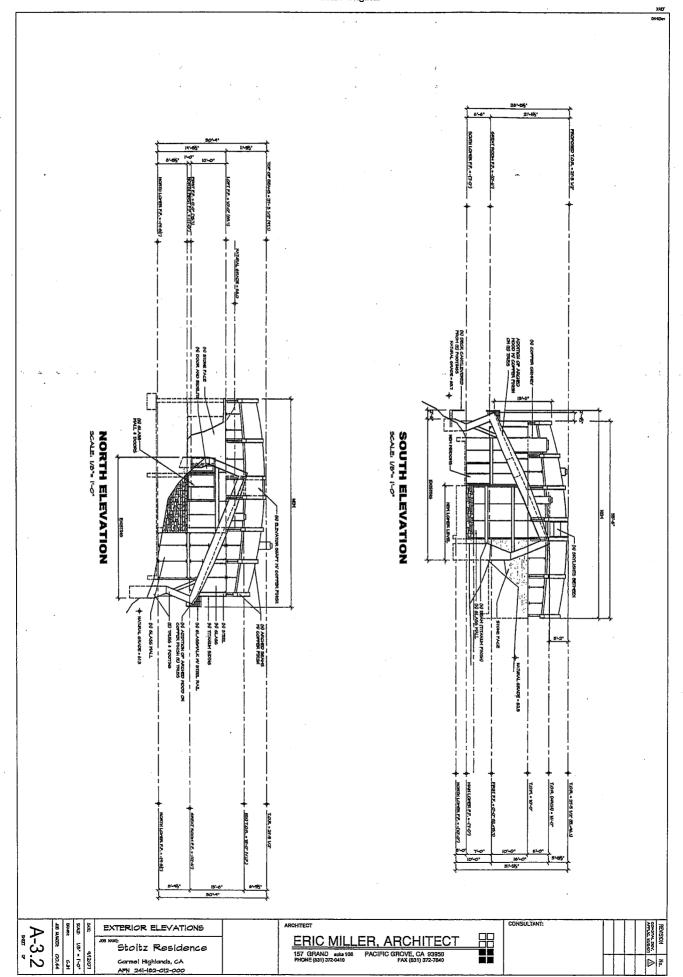
The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)	
8. WR40 - WATER CONSERVATION Compliance to be verified by Owner/ Prior to	
MEASURES building inspector at final Applicant final	
The applicant shall comply with Ordinance No. inspection. building	
3932, or as subsequently amended, of the inspection/	
Monterey County Water Resources Agency occupancy	
pertaining to mandatory water conservation	
regulations. The regulations for new	
construction require, but are not limited to:	
a. All toilets shall be ultra-low flush toilets	
with a maximum tank size or flush capacity of	
1.6 gallons, all shower heads shall have a	
maximum flow capacity of 2.5 gallons per	
minute, and all hot water faucets that have more	
than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be	
equipped with a hot water recirculating system.	
b. Landscape plans shall apply xeriscape	
principles, including such techniques and	
materials as native or low water use plants and	
low precipitation sprinkler heads, bubblers, drip	
irrigation systems and timing devices. (Water	
Resources Agency)	

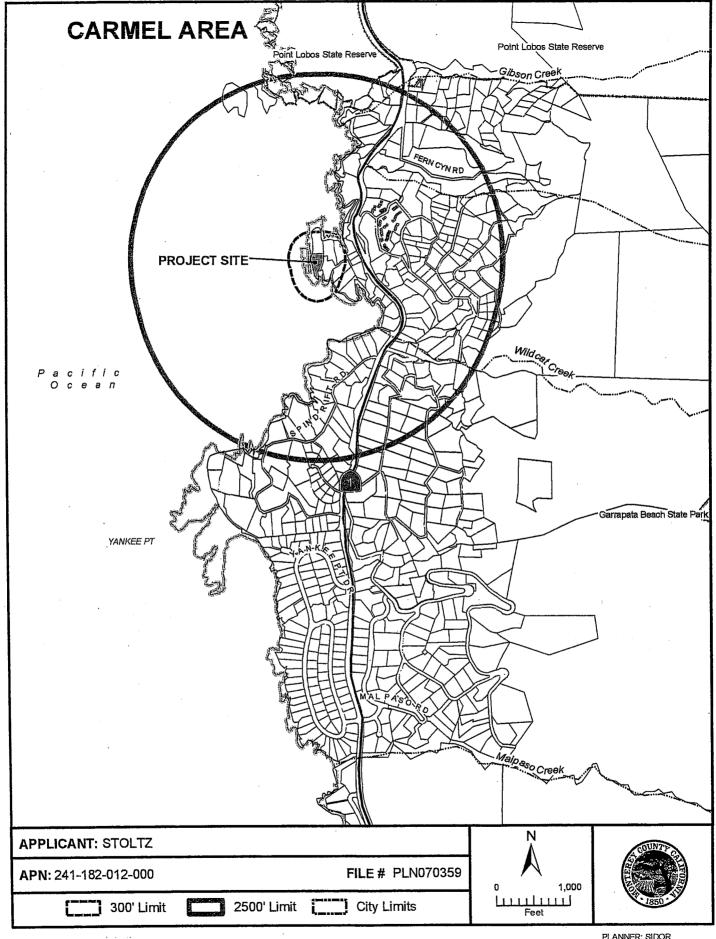
9.	WR43 - WATER AVAILABILITY	Submit the Water Release Form to	Owner/	Prior to	
J.	CERTIFICATION	the Water Resources Agency for	Applicant	issuance of	
	The applicant shall obtain from the Monterey	review and approval.		any	
	County Water Resources Agency, proof of			building	
	water availability on the property, in the form of			permits	
	an approved Monterey Peninsula Water			Politico	
	Management District Water Release Form.				
•	(Water Resources Agency)				
10	FIRE021 - FIRE PROTECTION EQUIPMENT	Applicant shall enumerate as "Fire	Applicant or	Prior to	
10.	& SYSTEMS - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM	Dept. Notes" on plans.	owner	issuance of	
	(STANDARD)	Dopt. 140tos on plans.		building	
	The building(s) and attached garage(s) shall be fully			permit.	
	protected with automatic fire sprinkler system(s).		İ		
	Installation shall be in accordance with the	Applicant shall schedule fire dept.	Applicant or	Prior to	
	applicable NFPA standard. A minimum of four (4)	rough sprinkler inspection.	owner	framing	
	sets of plans for fire sprinkler systems must be	-		inspection.	
	submitted by a California licensed C-16 contractor				
	and approved prior to installation. This requirement				
	is not intended to delay issuance of a building	Applicant shall schedule fire dept. final	Applicant or	Prior to final	
	permit. A rough sprinkler inspection must be	sprinkler inspection.	owner	building	
	scheduled by the installing contractor and	·		inspection.	
	completed prior to requesting a framing inspection.				
	Responsible Land Use Department: Carmel				
	Highlands Fire District.	A 1: , 1 11 , (CT)	A 1.		•
11.	FIRE030 - ROOF CONSTRUCTION - (VERY	Applicant shall enumerate as "Fire	Applicant or	Prior to	
	HIGH HAZARD SEVERITY ZONE) (Non-	Dept. Notes" on plans.	owner	issuance of	
	Standard)			building permit.	
	All new structures, and all existing structures receiving new roofing over 50 percent or more of			bernur.	
	the existing roof surface within a one-year period,				
	shall require a minimum of ICBO Class A roof				
	construction. Responsible Land Use Department:				
	Carmel Highlands Fire District.				
	CONTINITIONS		<u> </u>	<u> </u>	

END OF CONDITIONS









PLANNER: SIDOR

1. 16 PIERALBRON BERRING