

NO. 000469

A.P.# 173-101-053-000

In the matter of the application of  
**California-American Water Company (PLN000469)**

**FINDINGS & DECISION**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow replacement of an existing 200,000 gallon water storage tank with two 150,000 gallon steel storage tanks (40' diameter), removal of four Oak trees, grading (700 cu. yds.) and Design Approval; located off Spectacular Bid Lane, south of the intersection of Spectacular Bid Lane and York Road, Laguna Seca area, came on regularly for hearing before the Zoning Administrator on April 26, 2001.

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

**FINDINGS OF FACT**

1. **FINDING:** The subject Use Permit and Design Approval (PLN000469), as described in condition #1 of the attached Exhibit "C," and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located off Spectacular Bid Road. The parcel is zoned "LDR/B-6-UR (20')" or Low Density Residential, Building Site-Six - Urban Reserve, Twenty-foot height limit. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.
  - EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and the Greater Monterey Peninsula Area Plan.
  - EVIDENCE:** The project site is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and applicable Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval.
  - EVIDENCE:** The proposed use is consistent with the development standards for water storage tanks, pursuant to Title 21, Monterey County Zoning Ordinance.
  - EVIDENCE:** Design Approval request form, with recommendation for approval of the project by the Greater Monterey Peninsula Land Use Advisory Committee on March 21, 2001.
  - EVIDENCE:** Written and verbal public testimony submitted at public hearings before the Zoning Administrator.
  - EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

**EVIDENCE:** Section 21.14.050 of the Monterey County Zoning Ordinance (Title 21). Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

**EVIDENCE:** The on-site inspection by the project planner on February 5, 2001 and April 3, 2001 to verify that the proposed project complies with the Greater Monterey Peninsula Area Plan.

2. **FINDING:** The project as proposed is consistent with policies of the Greater Monterey Peninsula Area Plan dealing with visual resources and will have no significant impact on the public viewshed. The proposed project was evaluated in terms of the impact upon the public viewshed from Highway 68. The project is not visible from Highway 68, a common public viewing area.

**EVIDENCE:** On-site inspection by the project planner on February 5, 2001 and April 3, 2001, pursuant to Section 40.2.8 of the Greater Monterey Peninsula Area Plan.

3. **FINDING:** The proposed project will not have a significant environmental impact.

**EVIDENCE:** Section 15303 of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

4. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, applicable Fire Department, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

**EVIDENCE:** File and application materials contained in the project file.

5. **FINDING:** The project is appealable to the Planning Commission.

**EVIDENCE:** Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

### DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for a Use Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Use Permit is to replace an existing 200,000 gallon water storage tank with two 150,000 gallon steel storage tanks (40' diameter), removal of 4 Oak trees, grading (700 cu. yds.) and Design Approval. The project is located off Spectacular Bid Lane, (Assessor's Parcel Number 173-101-053-000) in the Greater Monterey Peninsula Area. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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. **(Planning and Building Inspection)**

**Prior to the Issuance of Grading and Building Permits:**

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse 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. **(Planning and Building Inspection)**
3. The applicant shall record a notice which states: "A permit (Resolution 000469) was approved by the Zoning Administrator for Assessor's Parcel Number 173-101-053-000 on April 26, 2001. The permit was granted subject to 18 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 issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
4. All exterior lighting shall be unobtrusive, 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 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 exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
5. 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. **(Planning and Building Inspection)**
6. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**

7. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
8. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
9. 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. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
10. All tree removal on the parcel must be in accordance with the Forest Management Report, prepared by Hugh Smith on January 20, 2001 and an addendum letter dated January 25, 2001, as approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
11. The area not proposed for structure or road shall be protected and kept free from disruption during construction. No construction materials or equipment shall be stored in the forested area. Before construction begins, orange fencing or hay bails shall be erected around the undisturbed forest area near the proposed development. The protected area shall not be used for any reason. Preservation of the forest soils shall be the main focus to minimize development impacts. **(Planning and Building Inspection Department)**
12. The following changes shall be reflected on plans submitted for building and/or grading permits:
  - A. There shall be no perimeter fencing or barbed wire used at the site.
  - B. Crushed granite shall be used on the access road and internal vehicle areas.
  - C. A gate beyond the bend in the access road, out of common site, shall consist of two poles spanned by a single chain.
  - D. External tank access ladders shall be positioned to minimize their visibility from adjacent residences.**(Planning and Building Inspection Department)**

**Prior to Final Building Inspection/Commencement of Use:**

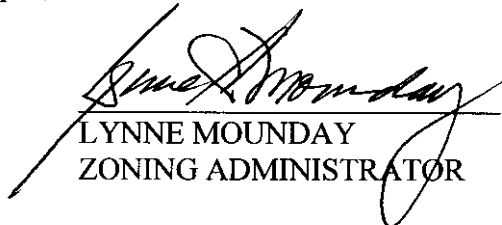
13. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. 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. Four trees were approved for removal within the development area. These trees shall be replaced on a one to one ratio. A replacement plan shall be included as part of the required landscape plan. Before occupancy, landscaping shall be installed. **(Planning and Building Inspection)**

14. Any damages incurred by the applicant during construction to the access road and/or adjoining properties shall be repaired in a timely manner at the cost of the applicant. **(Planning and Building Inspection)**
15. A sample flow test of hydrants throughout the water system served by the proposed tanks shall be made to verify the fire flow available. **(Salinas Rural Fire District)**

**Continuous Permit Conditions:**

16. Operators of construction and/or maintenance vehicles will be mindful of speed, noise and will exercise care to protect the access road pavement, abutting vegetation and landscaping from damage. **(Planning and Building Inspection)**
17. If during the course of construction activity on the subject property, cultural, archaeological, historical, 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 it can be evaluated by a qualified professional archaeologist. 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. **(Planning and Building Inspection)**
18. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 26th day of April, 2001.

  
LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON **MAY - 3 2001**

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 **MAY 14 2001**

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 Salinas.

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

