

NO. 000529

A.P.# 418-441-007-000

In the matter of the application of
Anthony Frank (PLN000529)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for the construction of a 25 foot high, 1,023 square foot caretaker unit, 930 square feet of decks and grading (65 cu. yds. Cut/fill); located at 19371 Cachagua Road, Cachagua Area Plan, 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 (PLN000529), 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, Cachagua Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 19371 Cachagua Road. The parcel is zoned "RC/20" or Resource Conservation, 20 acres/unit minimum. 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 Cachagua 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 caretaker units, pursuant to Title 21, Monterey County Zoning Ordinance.
EVIDENCE: Recommendation for approval of the project by the Cachagua Land Use Advisory Committee on February 28, 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: Sections 21.36.040 and 21.64.030 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 proposed project is consistent with Section 20.64.030 regarding regulations for caretaker units (see Condition 11). The Use Permit to allow exceeding the height limit is required pursuant to Section 20.64.030 (E).

EVIDENCE: The on-site inspection by the project planner to verify that the proposed project complies with the Cachagua Area Plan.

2. **FINDING:** Adequate sewage disposal and water supply facilities exist or are readily available, as approved by the Director of Environmental Health.

EVIDENCE: Materials in file.

3. **FINDING:** Recent growth in population, housing units, commerce and industry, in the County within the Carmel Valley Master Plan area and surrounding environs, including the Greater Carmel Valley Area has led to significant reductions in existing traffic levels of service, traffic congestion, and other attendant land use and environmental problems for the area. Recent traffic studies conducted by the Monterey County Department of Public Works in connection with its review of applications form discretionary permits reveal that the level of service on Carmel Valley Road has deteriorated to an unacceptable level as defined in Policy 39.3.2.1 of the Carmel Valley Master Plan.

EVIDENCE: Ordinance #3649 of the County of Monterey establishes a fee structure for certain types of development in a defined area of the Greater Carmel Valley to assist in funding certain safety improvements to Carmel Valley Road to mitigate traffic impacts. This application has been conditioned to pay appropriate fees. (See Condition #7)

4. **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.

5. **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.

6. **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 for the construction of a 25-foot high, 1023 square foot caretaker unit with 930 square feet of decks, a 200 sq. ft. carport, removal of three Oak trees, and grading (65 cu. yds. cut/fill). The project is located at 19371 Cachagua Road, (Assessor's Parcel Number 418-441-007-000) 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 000529) was approved by the Zoning Administrator for Assessor's Parcel Number 418-441-007-000 on April 26, 2001. The permit was granted subject to 16 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. The applicant shall pay the Carmel Valley Expanded Area Traffic Fee. **(Public Works)**
8. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. **(Water Resources Agency)**
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. 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)**
11. Prior to issuance of a building permit, or use of an existing structure as a caretaker unit, the applicant shall submit for review and approval of the Director of Planning and Building Inspection, and subsequently record, a deed restriction stating the regulations for caretaker units, as follows:
 - a) Only one caretaker unit per lot shall be allowed.
 - b) The caretaker shall be employed principally on the lot for purposes of care and protection of persons, plants, animals, equipment, or other facilities on-site or on contiguous lots under the same ownership.
 - c) The minimum lot size for establishment of a caretaker unit in areas not served by public sewers shall be two acres.
 - d) Caretaker units shall not be subject to density requirements of the zoning district in which the lot is located.
 - e) The maximum floor area for a caretaker unit is 1,000 square feet on lots of ten acres or less and 1,200 square feet on lots greater than ten acres.
 - f) A minimum of one covered off-street parking space shall be provided for the caretaker unit.

- g) The caretaker unit shall not be separately rented, let, or leased to other than the caretaker whether compensation be direct or indirect.
- h) Subsequent subdivisions which divide a main residence from a caretaker unit shall not be permitted except where lots created meet minimum lot size and density requirements of the existing zoning.
- i) Caretaker units are not permitted on any lot less than ten acres where a senior citizen unit exists. **(Planning and Building Inspection Department)**

Prior to Final Building Inspection/Commencement of Use:

- 12. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency 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 & Planning and Building Inspection)**
- 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. 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. Three 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 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 Planning and Building Inspection Department. **(Planning and Building Inspection)**
- 14. A Geotechnical Report was prepared by Soil Surveys, Inc. on February 15, 2001; and is on file at the Monterey County Planning and Building Inspection Department. Prior to final inspection, the consultant shall provide certification that all development has been designed and constructed in accordance with the geotechnical report. **(Planning and Building Inspection)**

Continuous Permit Conditions:

- 15. 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)**

16. 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 90th day following the date on which this decision becomes final.

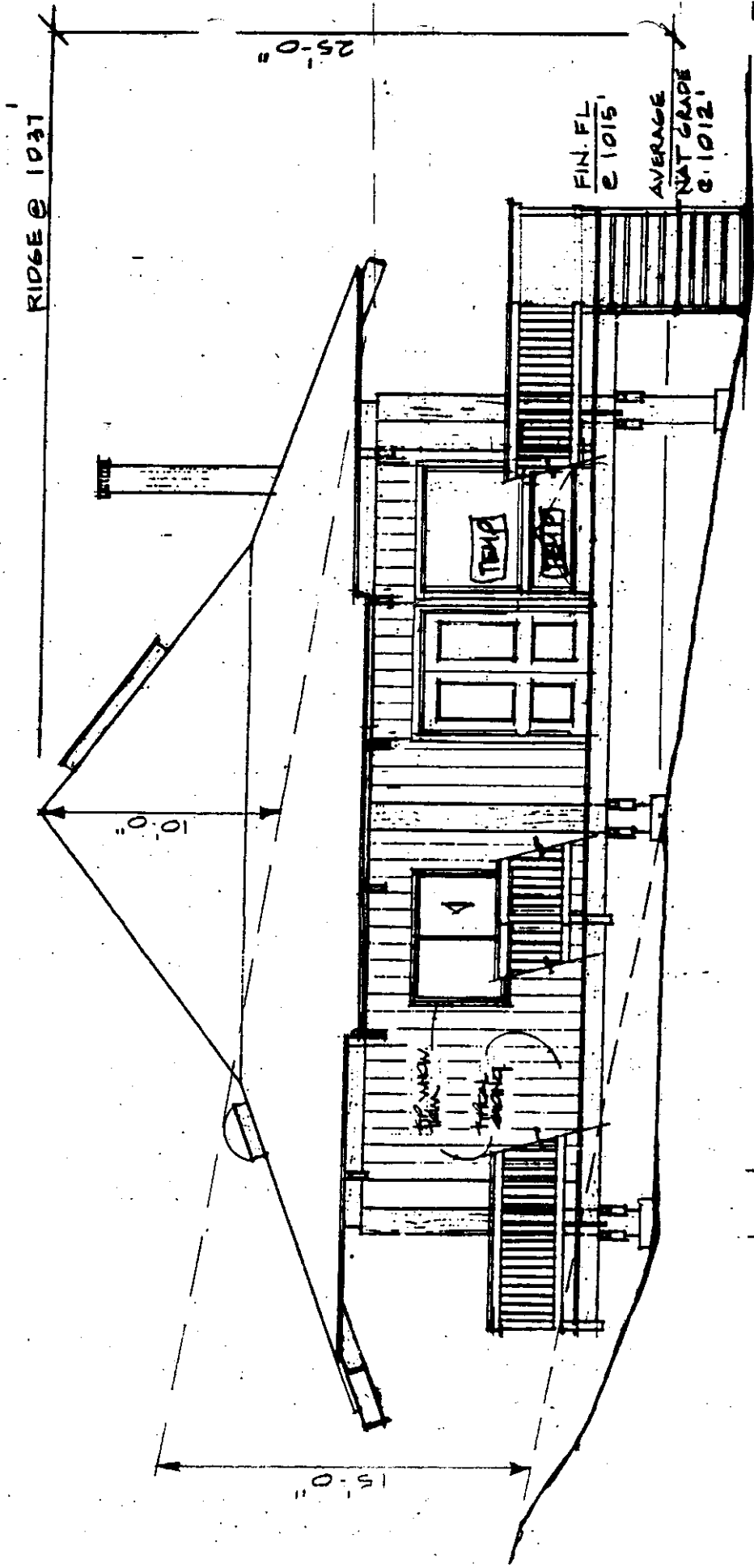
NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

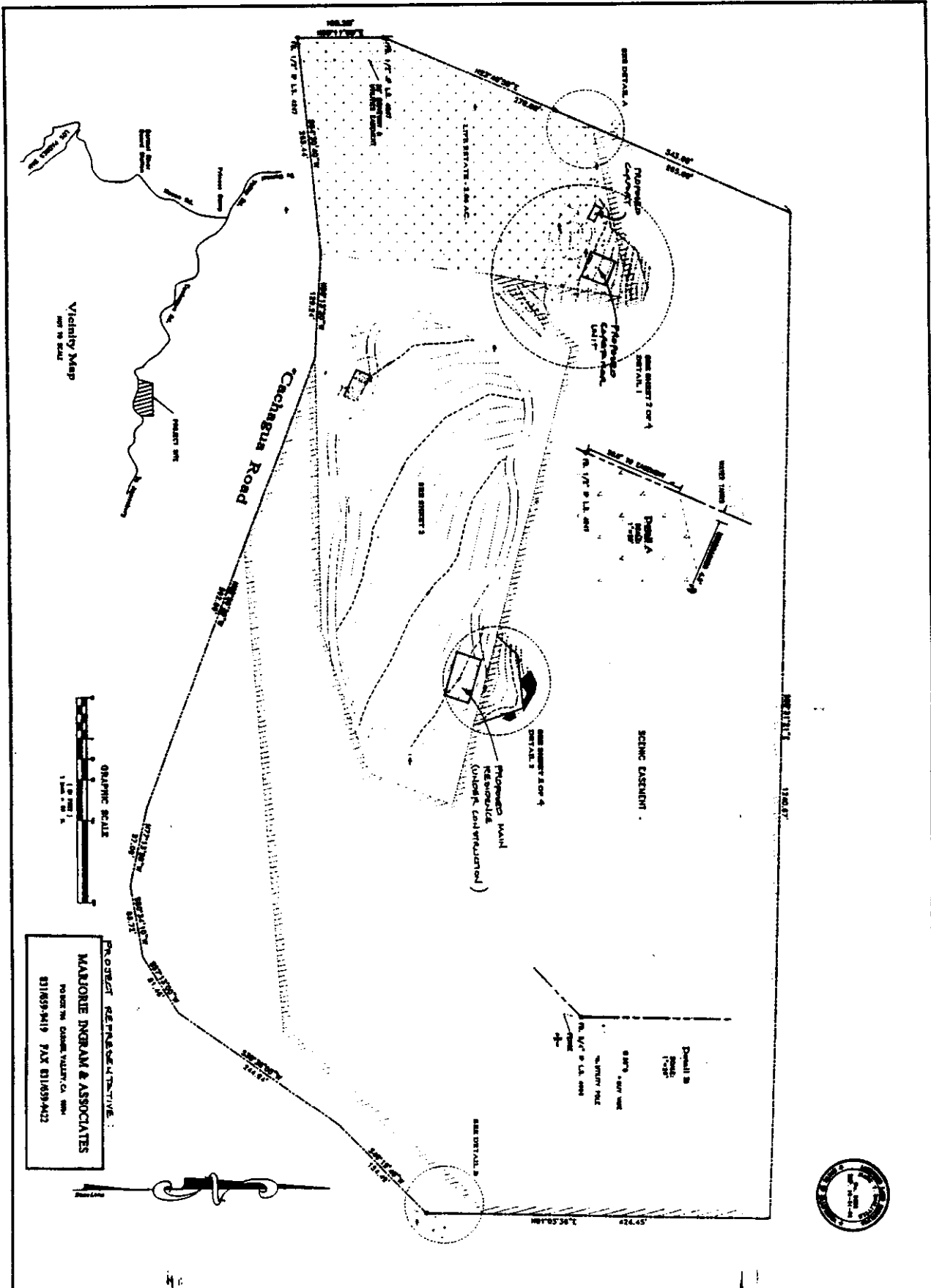
Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after 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.



LEFT SIDE WEST



PROJECT REPRESENTATIVE:
MAJORIE INGRAM & ASSOCIATES
 10000 N. CARMEL VALLEY, CA 95008
 831/859-4419 FAX 831/859-4422

SHEET 1
 OF
 4 SHEETS

SITE PLAN
 APN 418-441-007
 Cachagua Road, Carmel Valley Ca.
 prepared for:
ANTHONY FRANK

DRAWN BY: **MR. SO**
 APPROVED BY: **N. DODDLETT L.S. 6332**
 REVIEWED:
 SCALE: **1" = 50'**
 DATE: **02-18-00**

TOPOGRAPHIC SURVEYS
 ALTA SURVEYS
 821-375-3000 PW
 200 HOFFMAN AVENUE, SUITE 2
 SAN JOSE, CALIFORNIA, 95128



CONSTRUCTION MARKING
 LAND DEVELOPMENT
 FAX 831-375-3204