

RESOLUTION NO. 020107

A. P. # 189-011-037-000

In the matter of the application of
Edward & Camille Penhoet (PLN020107)

FINDINGS AND DECISION

to allow a **Combined Development Permit** in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of an Administrative Permit for the demolition of an existing 954 sq. ft. residence and construction of a new 1,806 sq. ft. two-story single family dwelling; a Use Permit for development within the Carmel River floodway fringe; and Design Approval, located at 460 West Carmel Valley Road, Carmel Valley, south of the Carmel Valley Road and east of Garland Ranch, came on regularly for meeting before the Zoning Administrator on September 26, 2002.

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

1. **FINDING:** The Penhoet application (PLN020107), as described in condition #1, is consistent with the policies of the Monterey County General Plan, the Carmel Valley Master Plan and the requirements and standards of the Monterey County Zoning Ordinance (Title 21). The property is located at 460 West Carmel Valley Road, in the Greater Monterey Peninsula area. The parcel is zoned for "LDR/1-D-S" (Low Density Residential, Design and Site Review). The site is physically suitable for the use proposed.
EVIDENCE: The application and plans submitted for the Combined Development Permit and Design Approval in project file PLN020107 the Monterey County Planning and Building Inspection Department.
EVIDENCE: Chapter 21.14 of Title 21 (Zoning Ordinance) of the Monterey County Code permits the first single family dwelling per lot in the "LDR" District. Chapter 21.45 states that an Administrative Permit is required for any development in the "S" (Site Plan Review) Districts. Under Chapter 21.44, a Design Approval is required for any development in the "D" (Design Review) District. To this end, the applicant has provided the Zoning Administrator with a Design Approval Request, drawings, photographs and a statement of materials and colors to be used.
EVIDENCE: The Geotechnical Investigation Report prepared by Soils Survey Inc., on April 24, 2002, concludes that the site is suitable for the proposed development, provided recommendations of the report are followed.
EVIDENCE: On August 26, 2002, the Carmel Valley Land Use Advisory Committee voted 7 to 0 to recommend approval.
2. **FINDING:** The proposed project is consistent with Section 21.64.130 of Title 21 (Zoning Ordinance) of the Monterey County Code, particularly subsections C.4, D.1 and D.2 relating to development in the "Floodway Fringe" of the Carmel River.
EVIDENCE: The project is partially located within Zone A10 and Zone A7 which is the 100-year floodplain of the Carmel river as shown on FEMA Flood Insurance Rate Map 060195 0205D, map date January 30, 1984. The base flood elevation at the building site is 205.5 feet, Mean Sea Level. The Carmel River Floodway Survey rated the parcel "P/D", or Partially in the

Floodway/Developed with no dwelling units in the Floodway. The proposed single family dwelling is not in the Floodway.

3. **FINDING:** The proposed project will not have a significant environmental impact.
EVIDENCE: The California Environmental Quality Act (CEQA) categorically exempts this project from environmental review pursuant to CEQA Guideline Section 15301 (k) (1), Class 1(*demolition exemption of one single family residence*), 15303 (a), Class 3 (*exemption of one single family residence*), 15061 (b) (2) and (3). No potentially adverse environmental impacts were identified during review of the proposed project. The residence proposed for demolition is not an historic structure.
4. **FINDING:** No written request, based on a substantive issue, for public hearing or other evidence of public controversy or public opposition as described in Section 21.70.060A, Title 21, Monterey County Code (Zoning) was found to exist.
EVIDENCE: Materials in project file.
5. **FINDING:** Public notice of the pending Administrative Permit was provided pursuant to Section 21.70.040, Title 21, Monterey County Code (Zoning).
EVIDENCE: Materials in project file.
6. **FINDING:** The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of Title 21. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: Sections 21.14, 21.42, 21.44 and 21.45 of the Monterey County Code (Zoning). Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
7. **FINDING:** The establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, appropriate Fire Department, Public Works 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.
8. **FINDING:** The decision on this project is appealable to the Planning Commission.
EVIDENCE: Section 21.45.050D of Title 21 (Zoning Ordinance).

DECISION

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

1. The Penhoet Combined Development Permit (PLN 020107) consists of an Administrative Permit for the demolition of an existing 954 sq. ft. residence and construction of a new 1,806 sq. ft. two-story single family dwelling; a Use Permit for development within the Carmel River floodway fringe; and Design Approval. The property is located at 460 West Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 189-011-037-000), south of Carmel Valley Road and east of Garland Ranch Regional Park. The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution No. 020107) was approved by the Zoning Administrator for Assessor's Parcel Number 189-011-037-000 on September 26, 2002. The permit was granted subject to 14 conditions, 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)**
3. All exterior lighting shall be unobtrusive, compatible 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. Any skylights shall be screened. 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 Department)**
4. 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)**
5. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. **(Water Resources Agency)**
6. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. **(Water Resources Agency)**

7. Owner shall record a notice stating that “the property is located within a floodplain and may be subject to building and/or land use restrictions.” A copy of the recorded notice shall be provided to the County Water Resources Agency. **(Water Resources Agency)**
8. Lowest floor and attendant utilities shall be constructed at least 206.5 feet above mean sea level (NGVD 1929). To provide for the flood-proofing and certification of the lowest floor elevation, a reference marker set to the elevation of the lowest floor shall be established at the building site by a licensed land surveyor prior to start of construction. An elevation certificate for the finished floor shall be completed by a registered civil engineer or licensed surveyor and provided to the County Water Resources Agency prior to the inspection and approval of the building foundation by the building inspector. **(Water Resources Agency)**
9. The proposed development shall be setback at least 200 feet from top of bank, as defined in Monterey County Code, Chapter 16.16 *Regulations for Floodplains in Monterey County*, unless it can be proven to the satisfaction of the Water Resources Agency that the proposed development will be safe from flow-related erosion hazards and will not significantly reduce the capacity of the existing watercourse. The top of bank shall be defined by a professional engineer and shown on the site plan prior to issuance of any grading and/or building permits. **(Water Resources Agency)**
10. The applicant shall protect the Redwood trees within the grading and construction zone by fencing with tree protection fencing to a distance of at least three times their diameter. Any roots damaged during construction should be clean cut to prevent disease and fungus pathogens from entering the main root. A note stating this requirement shall be included on the final construction plans prior to issuance. **(Planning and Building Inspection)**

Prior to Final Building Inspection/Occupancy:

11. 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 re-circulating 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)**
12. 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 project will be subject to a landscape plan review fee which 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 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 Planning and Building Inspection Department. **(Planning and Building Inspection Department)**

Continuous Permit Conditions:

- 13. 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 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)**

- 14. All landscaped areas and/or fences shall be continuously maintained by the property owner 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 **September, 2002.**

Original Signed By:

LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

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

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 Marina.

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