

In the matter of the application of
GILBERT DEAN ALAN TR ET AL (PLN050084)

Combined Development Permit consisting of an Administrative Permit and Design Approval to allow a new 6,600 square foot single family dwelling, a 980 square foot detached garage, 1,050 square feet of covered porches, and a 600 square foot detached guesthouse; Use Permit to allow removal of 58 coast live oak trees on a densely forested parcel. Grading of 2,170 cubic yards cut and 880 cubic yards fill. The property is located at 53 Marguerite, Carmel, Greater Monterey Peninsula Area.

FINDINGS OF FACT

1. **FINDING: CONSISTENCY & SITE SUITABILITY** - The Gilbert Combined Development Permit (PLN050084), as described and conditioned here, is consistent with applicable plans, policies, requirements, and standards of the Monterey County General Plan, the Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 53 Marguerite, Carmel (Assessor's Parcel Number 169-421-021-000) in the Tehama subdivision. The parcel is zoned "RDR/10-D-S-RAZ" (Rural Density Residential with a maximum density of 10 acres/unit with Design Control, Site Plan Review and Residential Allocation Zoning Overlays). The site is physically suitable for the use proposed.

- EVIDENCE:** (a) The Planning and Building Inspection Staff has reviewed the project for consistency with:
- Monterey County General Plan
 - Greater Monterey Peninsula Area Plan
 - Chapter 21.64, Regulations for Preservation of Oak and Other Protected Species (Title 21)
 - Chapter 21.16, Regulations for Rural Density Residential Zoning Districts (Title 21)
 - Chapter 21.44, Regulations for Design Control Zoning Districts (Title 21)
 - Chapter 21.45, Regulations for Site Plan Review Zoning Districts (Title 21)
 - Chapter 21.52, Regulations for Residential Allocation Zoning Districts (Title 21)
- (b) The project planner conducted an on-site inspection on March 22, 2005 to verify that the project on the subject parcel conforms to the plans listed above.
- (c) The removal of 58 coast live oaks is allowed with the approval of a Use Permit in accordance with Section 21.64.260 of the Monterey County Code (Title 21).
- (d) The parcel is zoned Rural Density Residential with a maximum density of 10 acres/unit, Design Control, Site Plan Review and Residential Allocation ("RDR/10-D-S-RAZ"). The project is in compliance with site development standards for Rural Density Residential Zoning Districts in accordance with Section 21.16, which allows single-family dwellings and guesthouses.

- (e) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Parks, the Water Resources Agency, the Environmental Health Division, and Carmel Valley Fire. Conditions recommended have been incorporated.
- (f) A Design Approval application was submitted, and staff has determined that the project will not negatively impact public viewsheds, neighborhood character, or the visual integrity of the development. Also, the Tehama Architectural Review Committee approved the design of the proposed project.
- (g) A Forest Management Plan (FMP) was prepared for this project by Stephen R. Staub and Cheyenne Borello of Staub Forestry and Environmental Consulting in December 2004. The objective of the FMP was to address potential issues associated with tree removal such as soil erosion, noise pollution, and impacts to water quality, ecological systems, air movement, and wildlife habitat. The FMP indicates that no landmark trees are proposed for removal and that most of the property's 5-acre canopy cover will remain undisturbed. The FMP also indicates that the number of trees proposed for removal is the minimum required under the circumstances. It recommends replacement of 29 coast live oaks proposed for removal.
- (h) 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 Project File PLN050084.

2. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Section 15304 and Section 15061(b)(3). No potentially adverse environmental impacts were identified during review of the proposed project to remove 58 coast live oak trees.

(b) CEQA Section 15303(a). No potentially adverse environmental impacts were identified during review of the proposed project to construct a one-story single-family dwelling with a guesthouse and detached garage.

3. **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 has reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations existing on the subject property.

(b) Sections 21.16, 21.44, 21.45, and 21.52 of the Monterey County Code (Title 21).

4. **FINDING: TREE REMOVAL** – The tree removal is the minimum required under the circumstances of the case, and the removal will not cause significant soil erosion, noise pollution, or significant negative impacts to water quality, ecological systems, air movement, or wildlife habitat.

EVIDENCE: (a) The FMP indicates that the number of trees proposed for removal is the minimum required under the circumstances, and that most of the proposed development is located in an area with relatively fewer trees than the remainder of the property. The FMP indicates that no landmark trees are proposed for removal and that most of the property's 5-acre canopy cover will remain undisturbed. The FMP recommends replacement of 29 coast live oaks proposed for removal.

(b) The potential impact to native trees close to the proposed development is assessed in the Forest Management Plan. Measures for tree protection during construction have been incorporated as conditions and include tree protection fencing, trunk protection, and

bridging or tunneling under major roots where exposed in the foundation or utility trenches.

(c) Forest Management Plan prepared in December 2004 by Stephen R. Staub and Cheyenne Borello of Staub Forestry and Environmental Consulting, contained in Project File PLN050084.

5. **FINDING: HEALTH & 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.

6. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

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

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for an Combined Development Permit and Design Approval be granted as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 14th day of April, 2005.

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF 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.

Monterey County Planning and Building Inspection Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: <i>Gilbert</i> File No: PLN050084 Approval by: <u>Zoning Administrator</u>	APN: 169-421-021-000 Date: <u>April 14, 2005</u>
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Numbe r</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsibl e Party for Complianc e</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 050084) was approved by the Zoning Administrator for Assessor's Parcel Number 169-421-021-000 on April 14, 2005. The permit was granted subject to twelve (12) 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)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to issuance of grading and building permits or start of use	

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2.		<p>PBD026 – NOTICE OF REPORT</p> <p>Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: “A Forest Management Plan (dated December 2004) has been prepared for this parcel by Staub Forestry and Environmental Consulting and is on record in the Monterey County Planning and Building Inspection Department, Library No. _____. All development shall be in accordance with this report.”</p> <p>(Planning and Building Inspection)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to issuance of grading and building permits	

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3.		<p>PBD029 - SPECIFIC USES ONLY</p> <p>This Combined Development Permit (PLN050084) allows the removal of fifty-eight (58) coast live oak trees and the construction of a 6,600 square-foot one-story single-family residence with 1,050 square feet of covered porches, a 980 square-foot detached garage, and a 600 square-foot guesthouse. The property is located at 53 Marguerite, Carmel (Assessor's Parcel Number 169-421-021-000), Greater Monterey Peninsula Area Plan. 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 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)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

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4.		<p>PBD030 - STOP WORK - RESOURCES FOUND</p> <p>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 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)</p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection 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.</p>	<p>Owner/ Applicant/ Archaeologist</p>	<p>Ongoing</p>	
5.		<p>PBD032(B) – TREE AND ROOT PROTECTION</p> <p>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 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)</p>	<p>Submit evidence of tree protection to PBI for review and approval.</p>	<p>Owner/ Applicant</p>	<p>Prior to issuance of grading and/or building permits</p>	

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6.		PBD034 – UTILITIES – UNDERGROUND All new utility and distribution lines shall be placed underground. (Planning and Building Inspection; Public Works)	None.	Owner/ Applicant	Ongoing	
7.		PBD042 – 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. (Planning and Building Inspection)	If applicable, apply and receive the appropriate grading permit from Monterey County Planning and Building Inspection.	Engineer/ Owner/ Applicant	Prior to issuance of grading or building permits	
8.		PBD-TREE REPLACEMENT The applicant shall plant on the parcel 29 coast live oak trees from local native stock. The trees shall be a minimum of 1 to 5 gallons in size. (Planning and Building Inspection)	Plant on the parcel 29 coast live oak trees from local native stock in areas of suitable soil. Amend the soil if necessary. Water the trees periodically if planted during the dry months. Planting small trees in the winter when the rains begin will reduce or eliminate the need for watering. Provide browse protection for at least the first 2 years.	Owner/ Applicant	Prior to final inspection	
9.		WR043 - WATER AVAILABILITY CERTIFICATION The applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	

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10.		<p>WR040 - WATER CONSERVATION MEASURES</p> <p>The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:</p> <p>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.</p> <p>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.</p> <p>(Water Resources Agency)</p>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	
11.		<p>WR3-DRAINAGE PLAN-RETENTION</p> <p>The applicant shall provide the Water Resources Agency with a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. The plan shall include retention/detention facilities to mitigate the impact of impervious surface stormwater runoff. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)</p>	Submit a drainage plan to the Water Resources Agency.	Owner/ Applicant	Prior to issuance of grading or building permits	

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12.		<p>WR8-COMPLETION CERTIFICATION</p> <p>The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention/retention facilities have been constructed in accordance with approved plans. (Water Resources Agency)</p>	Construct drainage improvements in accordance with plans approved by the Water Resources Agency and provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention/retention facilities have been constructed in accordance with approved plans.	Owner/ Applicant	Prior to final inspection	