



# County of Monterey Planning Commission

## Item No.3

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

### Agenda Item No.3

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October 30, 2024

**Introduced:** 10/23/2024

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**Version:** 1

**Matter Type:** Planning Item

#### **PLN210061 - JOHNSON HAL W JR & ALLISON H**

Public hearing to consider variances to reduce the front setbacks and allow construction of a 4,921 square foot single-family residence, inclusive 803 square feet of non-habitable space for an attached garage and a mechanical room, and associated site improvements on slopes in excess of 30% and within 50 feet of a coastal bluff and 750 feet of known archaeological resources. Site improvements include removal of 6 protected trees; grading of 2,305 cubic yards of cut and 355 cubic yards of fill; a foundation system consisting of micropiles and soil nails; driveway and flatwork; retaining walls; an emergency fire access stairway; paving of the access road leading to the site; and utility improvements consisting of installation of a septic tank, centralized water quality treatment for Highway 1 Water Distribution System #12, an approximately 400 lineal feet sewer line.

**Project Location:** 226 Highway 1, Carmel, Carmel Area Land Use Plan, Coastal Zone

**Proposed CEQA action:** Adopt a Mitigated Negative Declaration pursuant to section 15074 of the CEQA Guidelines and adopt a Mitigation Monitoring and Reporting Plan

#### RECOMMENDATION:

It is recommended that the Monterey County Planning Commission adopt a resolution:

- 1) Adopting a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
- 2) Approving a Combined Development Permit consisting of a:
  - a. Variance to the required setbacks for the single-family residence to reduce the front setback parallel to Highway 1 from 30 feet to 20 feet; and a
  - b. Variance to reduce the required setbacks for a retaining wall and emergency access stairway, reducing the setback from 30 feet to between 2 and 14 feet along the eastern, northeastern, and southerly property lines;
  - c. Coastal Administrative Permit and Design Approval to allow construction of: a 4,921 square foot single-family residence, inclusive 803 square feet of non-habitable space for an attached garage and a mechanical room; and associated site improvements including grading with 2,305 cubic yards of cut and 355 cubic yards of fill; an auto-court, interior courtyard, and patio area with a hot tub; an emergency fire access stairway; a foundation system consisting of micropiles and soil nails; retaining walls parallel to Highway 1; paving the access road leading to the site; and utility improvements including a septic tank, centralized water quality treatment for Highway 1 Water Distribution System #12, and approximately 400 lineal feet of sewer line;
  - d. Coastal Development Permit to allow development within 50 feet of a coastal bluff;
  - e. Coastal Development Permit to allow removal of 6 trees, including 5 Monterey

- cypress (four of which are landmark trees) and 1 Monterey pine;
  - f. Coastal Development Permit to allow 6,758 square feet of development on slopes in excess of 30%;
  - g. Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
- 3) Adopting a Condition of Approval and Mitigation Monitoring and Reporting Plan.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to 28 conditions of approval.

**PROJECT INFORMATION:**

**Owner:** Johnson, Hal W Jr & Allison H

**Agent:** Carla Hashimoto, Eric Miller Architects, Inc.

**APN:** 241-182-003-000, 241-182-004-000 and 241-182-005-000, and 241-182-006-000

**Zoning:** Low Density Residential, 1 acre per unit, with a Design Control Overlay, in the Coastal Zone [LDR/1-D (CZ)]

**Parcel Size:** 0.63 acres (27,400 square feet)

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** Previously, Flagging Removed and Photo-Simulations Provided

**Planner:** Phil Angelo, Senior Planner

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**SUMMARY:**

The applicants are proposing to construct a 4,118 square foot single-family residence on a vacant property with an attached 803 square foot garage and mechanical room, totaling 4,921 square feet. The property is within the Carmel Highlands area, situated on a coastal bluff, west of Highway 1 and the Hyatt Carmel Highlands, and south of a vista point along the highway. Associated site improvements would include grading with 2,305 cubic yards of cut and 355 cubic yards of fill; an auto-court, interior courtyard, and patio area with a hot tub; an emergency fire access stairway; a foundation system consisting of micropiles and soil nails; a retaining wall parallel to Highway 1; and utility improvements including a septic tank, centralized water quality treatment for Highway 1 Water Distribution System #12, and an approximately 400 lineal foot sewer line. The project proposes removal of 6 trees, including 5 Monterey cypress (four of which are landmark trees) and 1 Monterey pine. As proposed, the project includes development on slopes in excess of 30% (approximately 6,758 square feet), within 50 feet of a coastal bluff, and within 750 feet of known archaeological resources. Two setback Variances are requested. One for the front setback for the main residence parallel to Highway 1, to reduce the setback from 30 feet to 20 feet.

The other is to reduce the setbacks for the proposed retaining wall and an emergency access stairway. Because portions of the retaining wall and the stairway are in overlapping front setbacks, one from a “flag lot” radius and another from the eastern property line, and the location of the improvements varies in distance from the property lines, this setback is difficult to exactly quantify. The setback for the retaining wall along the northeastern property line would be approximately 9 to 13 feet from the property line. A portion of the retaining wall would be approximately 14 feet from the eastern

(Highway 1) property line. The majority of the retaining wall, and the emergency access stairway, would be approximately 2 feet from the eastern and southern property lines. This reduces the front setback from Highway 1 by 28 feet (from 30 feet), and reduces the front setback along the southern property line between 14 and 27 feet (within a 30 foot radius). Regardless, setback would only allow the retaining wall and emergency access stairs in their proposed location as shown on the site plan attached to **Exhibit B**.

The surrounding neighborhood consists of 13 residential properties, three of which are undeveloped and the other 10 developed with single-family residences. All of the properties have access to Highway 1 through a shared private driveway easement that winds through the community. The neighborhood exemplifies many of the topographic, resource, and infrastructure constraints that make development extremely difficult in the County's coastal zone. Many of the properties are constrained by steep cliffs, slopes, bluff and sage scrub habitats, trees, and archaeological resources. The protection of visual access and the visual resources of Carmel Highlands places additional constraints on siting and design of any development. As one of the last undeveloped sites in the neighborhood, the property shares many of these constraints:

- The property is steeply sloped downward from the highway to a very steep coastal bluff above a small cove. The only portion of the site not on bluffs or in excess of 30 percent is an approximately 1,875 square foot pad graded sometime in the 1960's.
- The site is west of scenic Highway 1 and southwest of a popular pull out vista point along the highway.
- The site has significant tree cover, principally Monterey cypress trees.
- The site is in a highly archaeologically sensitive area, and offsite improvements would have the potential to impact a known archaeological resource.

Over the course of project review, the County has also received comments from neighbors expressing concern regarding the project, as well as comments from California Coastal Commission (CCC) staff. These comments are attached as **Exhibit G**. Common threads of concern included the projects size and siting near the bluff; development on slopes; potential visual resource impacts, particularly from the nearby highway vista point; whether the proposed Monterey cypress removal is warranted; potential archaeological resource impacts; and the potential for the project to exacerbate erosion issues in the area, including by the tree removal.

The Carmel Area Land Use Plan (LUP) and it's implementing regulations in the County of Monterey Coastal Implementation Plan (CIP) have policies and regulations that address each of these subject areas: restricting development on slopes, addressing development in geologically hazardous areas, protecting visual resources and visual access for the public, protecting forest resources, and protecting archaeological resources. County staff communicated these concerns received to the applicants' agent, and they've made several design changes during the review process to address them and the unique constraints of the site: modifying the residence's design, colors and materials, siting, and associated site improvements in order to harmonize it with the visual resource protection policies of the LUP, minimize development on slopes, and pull the home as far as possible from the coastal bluff.

The proposed tree removal is unavoidable in this case and consistent with the requirements of the CIP, as the forest management plan (**Exhibit D**) states that the trees are generally in poor condition structurally due to crown fragmentation, limb dieback, or are uprooting, and would not be safe to retain when any development occurs near them due to soil disturbance. Therefore, alternatives such as re-siting, re-design, and reduction in development would not be successful in saving these trees. In accordance with the CIP regulations for development in the LUP, staff are recommending 1:1 replacement of all the protected trees and installation of tree protection measures for all trees not proposed for removal.

The relatively soft surface soils of the site are prone to erosion. However, the applicants have submitted the appropriate plans and technical reports to address erosion on the site as required by the LUP and CIP, including draft drainage and erosion control plans (**Exhibit E**) prepared by a licensed civil engineer which was reviewed by HCD-Environmental Services, and would be reviewed again prior to issuance of ministerial grading permits; geological reports prepared by a certified engineering geologist which analyzed and provided recommendations to address slope stability and drainage (HCD-Planning File Nos. LIB210218 and LIB240060); and geotechnical reports (HCD-Planning File Nos. LIB210219 and LIB240059) prepared by a licensed civil engineer providing recommendations regarding grading and site preparation, drainage, and foundation design. Recommendations of these reports would be required to be adhered to. The applicants' civil engineer also prepared an additional letter explaining how drainage has been designed as to not concentrate runoff on any one area, preventing erosion of the surface soils on the bluff (**Exhibit H**).

An archaeological report together with a supplemental letter report were prepared to assess whether the project has the potential to impact archaeological resources (HCD-Planning File No. LIB201216). While there is no evidence of resources on the site where the house is proposed, the proposed sewer line and driveway improvements traverse over properties that overlap with a mapped archaeological site. The recorded site occupies several properties, and the extent of any specific resources associated with it are not known. In accordance with the LUP and CIP, mitigation measures and conditions are recommended which would include a cultural awareness training for construction personnel, archaeological monitor, tribal cultural monitor, procedures for stopping work if archaeological resources or human remains are identified, and the requirement for an archaeological mitigation if any resources are identified during the course of construction.

Taken together staff believes that with the design changes made over the course of the project's development, recommended Mitigation Measures and Conditions of Approval, and the supplemental materials submitted have resulted in a proposal that is consistent with, and balances, overarching resource protection policies of the LUP and their implementing regulations in the CIP. This is an ambitious proposal for a highly constrained site, however staff also reviewed the floor area of the project and the nearby residences (inclusive of any accessory structures) and concluded that it was roughly commensurate with the level of development of other properties in the area, who have similar constraints. All properties are developed with large single-family residences, and the overall size of residences in the area ranges from 2,160 square feet to 8,941 square feet. The average overall was approximately 4,800 square feet (121 square feet less than the project), while the average of properties constructed in the last 10 years was 5,446 square feet (825 square feet more than the project).

DISCUSSION:

Additional discussion of visual resources, development in proximity to a bluff, development on slopes in excess of 30 percent, and the two Variances is included in **Exhibit A**.

CEQA:

Pursuant to Public Resources Code Section 21083, and California Environmental Quality Act (CEQA) Guidelines Sections 15063(a) and 15063(b)(2), the Lead Agency shall conduct environmental review in the form of an Initial Study to determine if the Project may have a significant effect on the environment, and shall prepare a Negative Declaration (in this case a Mitigated Negative Declaration) if there is no substantial evidence that the Project or any of its aspects may cause a significant effect on the environment.

The Initial Study and Mitigated Negative Declaration (**Exhibit C**) were prepared in accordance with the CEQA Guidelines; filed with the County Clerk on July 11, 2024; and circulated for public review from July 11, 2024 through August 12, 2024 (State Clearinghouse Number 2024070467). The Initial Study identified potential impacts to archaeological / tribal cultural resources which could be mitigated to a less than significant level with the imposition of Mitigation Measures, CUL-1 (Condition No. 18), CUL-2 (Condition No. 19), CUL-3 (Condition No. 20), CUL-4 (Condition No. 21), and TR-CUL-1 (Condition No. 22), and the County's standard positive archaeological stop work condition (Condition No. 3). These mitigations measures and condition all interlock and operate together:

- CUL-1 Cultural Resources Awareness Training would ensure that construction crews doing earthwork on the most archaeologically sensitive areas of the project be trained to identify resources so that work can be halted appropriately if anything is found;
- CUL-2 Archaeological Monitor would require that an archaeological monitor be present during the most archaeologically sensitive areas of the project to stop work and evaluate any finds, and that an on-call archaeologist be available for any activities not actively being monitored by an archaeologist;
- CUL-3 Cultural Resources Stop Work Steps and County standard condition PDP003(B) establish clear procedures on halting work and the required steps if any previously unknown resources or human remains are encountered;
- CUL-4 would require an archaeological mitigation plan be prepared if any resources are identified, as well as considering the input of the tribal cultural monitor in the disposition of any resources; and
- TR-CUL-1 shall require a tribal cultural monitor be present for earth work and ground disturbance.

All other subject areas either would have no impact or a less than significant impact with the application of uniformly applicable regulations for development projects and standard conditions of approval.

The County received one comment letter regarding on the Initial Study during the circulation period, which is included in **Exhibit G**. Responses to the some of the key contentions in the comment letter

are included in the draft resolution **Exhibit B**. Additionally, in response to comments staff clarified, amplified, and corrected specific sections of the Initial Study, which are indicated in cross out and underline in **Exhibit C**. However, none of the alterations or comments triggered the requirement to recirculate the Initial Study and Mitigated Negative Declaration pursuant to CEQA Guidelines section 15073.5.

OTHER AGENCY/DEPARTMENT INVOLVEMENT:

The following County agencies or departments reviewed this project during the County's interdepartmental review process:

- HCD-Planning Services
- The Environmental Health Bureau (EHB)
- HCD-Engineering Services
- Carmel Highlands FPD
- HCD-Environmental Services

There has been no indication from any of these agencies that the site is not suitable for the proposed project, and recommended conditions have been included in the draft conditions of approval attached to **Exhibit B**.

As the project includes connecting to and installing water treatment system improvements for Highway 1 Water Distribution System No. 12, which has a Water Distribution System (WDS) permit from the Monterey Peninsula Water Management District (MPWMD), permit number M13-05-L2, staff reached out to the MPWMD regarding potential district permitting requirements. They confirmed that because the WDS permit included three connections, one for this property, and project did not entail an additional water system connection, it would not be required to amend the WDS permit but would require a water permit to ensure that the number of water fixtures do not exceed the production limitations imposed by the WDS permit.

Similarly, as the project includes the installation of a 26 foot retaining wall foundation system adjacent to the Highway 1 right-of-way, and the draft construction management plan included staging of vehicles along the shoulder of Highway 1, the County referred the project to Caltrans District 5 for review and input. They stated that the project would require an encroachment permit from their office and encouraged concurrent submittal and review of the County planning and Caltrans permits. The applicants submitted their application for an encroachment permit to Caltrans for such review.

The project's can and will serve letter from the Carmel Area Wastewater District (CAWD) references a private "Highlands Point" association who manages the sewer lateral for this area. Staff reached out to CAWD staff regarding the project and the district engineer indicated that they would require authorization from the properties served by this system prior to their issuance of a ministerial sewer connection permit. Therefore, Condition of Approval No. 28 is recommended, which would require the applicant to provide verification that they've received permission to connect to the "Highlands Point Association" from the owners served by that system and a sewer connection permit from CAWD prior to issuance of grading or building permits.

LUAC REVIEW:

The project was referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC), who reviewed the project at their December 5, 2022 meeting. The LUAC had questions regarding site access, the Variance to reduce the front setback along Highway 1, the slope of the site, the water and sewer system, construction schedule, and roofing material. The architect was present and addressed the LUAC's questions, and the LUAC voted 6-0 with 1 absent to recommend approval as proposed. (**Exhibit F**).

Prepared by: Phil Angelo, Senior Planner x5731

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, Chief of Planning

The following attachments are on file with the HCD:

Exhibit A - Discussion

Exhibit B - Draft Resolution, including:

- Recommended Condition of Approval
- Coastal Hazards Deed Restriction
- Site Plans, Floor Plans, Elevations, and Colors and Materials

Exhibit C - Clarified and Amplified Initial Study and Mitigated Negative Declaration

Exhibit D - Construction Impact Assessment and Tree Management Plan (LIB210215)

Exhibit E - Draft Landscaping, Exterior Lighting, Grading, Erosion Control, and Utility Plans

Exhibit F - Carmel Unincorporated/Highlands LUAC Meeting Minutes

Exhibit G - Public Comments

Exhibit H - Applicant Civil Engineer and Archaeologist Response Letters

Exhibit I - Vicinity Maps, including Mutual Water System and Sewer System

Exhibit J - Site Photos

Exhibit K - Photo-Simulations

cc: Front Counter Copy; Carmel Highlands FPD; HCD-Engineering Services, HCD-Planning; HCD-Environmental Services; Environmental Health Bureau; Phil Angelo, Senior Planner; Anna Ginette Quenga, AICP, Principal Planner; Melanie Beretti, AICP, Chief of Planning; M Johnson Hal W Jr & Allison H, owner/applicant; Carla Hashimoto, Eric Miller Architects, Agent; The Open Monterey Project (Molly Erickson); LandWatch; Lozeau Drury LLP; Keep Big Sur Wild, Christina McGinnis; Patrick Treanor, Carmel Area Wastewater District; Heather Roberts, Interested Party; Tom Oliveri, Interested Party; Tom "Little Bear" Nasan, Esselen Tribe of Monterey County; Alex J Lorca of Fenton & Keller, Interested Party; Stephanie Kister, Monterey Peninsula Water Management District; Matthew D Francois of Rutan & Tucker LLP, Interested Party; Kristie M Campbell of Fenton & Keller, Interested Party; Heide Cortapassi, Interested Party; Dennis Chambers, Interested Party; Jennifer Breitwischer, Interested Party; Eileen Stephens, California Department of Transportation District 5; Project File PLN210061.