

**ATTACHMENT A**

**PROJECT DESCRIPTION AND DISCUSSION**  
**BLACK CROW LLC – PLN160348**

**Project Description and Setting**

The proposed project consists of demolition of an existing one-story single-family dwelling with an attached garage, and the construction of a new one-story single-family dwelling with an attached garage. The property is located at 2874 Pradera Road, Carmel Meadows, within the Carmel Area Land Use Plan. The parcel is zoned Medium Density Residential/2 units per acre, with a Design Control overlay and an 18-foot height limit (Coastal Zone) [MDR/2-D(18)(CZ)]. The construction of single-family dwellings and accessory structures are an allowed use in the MDR zoning district, subject to the granting of a Coastal Administrative Permit. Carmel Meadows is a developed residential neighborhood, and the subject parcel and adjacent parcels have been previously-developed with single-family dwellings and accessory structures.

**Process: Administrative Review / Request for Public Hearing / Appeal**

Pursuant to Monterey County Code (MCC), Coastal Administrative Permits and administrative Design Approvals are considered and approved by the RMA Chief of Planning, unless an interested party requests a public hearing for the proposed project. The County originally scheduled and duly-noticed the project for administrative review on March 15, 2017. After noticing for administrative review, the County received two requests for public hearing; therefore, the item was scheduled for review by the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) at a public meeting on April 17, 2017, and set for public hearing and consideration before the Zoning Administrator (ZA) on April 27, 2017.

The concerns raised in the two requests for public hearing involved possible impacts to private views, neighborhood character, drainage, and interior lighting. The requestors also expressed concern that the applicable land use advisory committee did not review the project, and that the staking and flagging was not clearly visible before being damaged by wind. These concerns were addressed in the staff report prepared for the Zoning Administrator public hearing. On April 27, 2017, after review of the application and submitted documents, and a duly-noticed public hearing at which all persons had the opportunity to be heard, the Zoning Administrator found the project to be categorically exempt from CEQA and approved a Coastal Administrative Permit and Design Approval to allow the proposed development (Monterey County Zoning Administrator Resolution No. 17-026; **Attachment D**). These concerns remain relevant to the appeal and are addressed below under **Project Analysis**.

The Appellant, Courtney Meyers, then timely filed an appeal from the April 27, 2017, decision of the Zoning Administrator. The appeal challenges the Zoning Administrator's approval of the Coastal Administrative Permit and Design Approval, and contends that there was a lack of a fair or impartial hearing, and that the findings or decision or conditions are not supported by the evidence. The specific contentions raised by the Appellant are addressed below under **Appeal**.

## **Project Analysis**

### **Applicable Zoning Development Standards.**

The development standards for the MDR zoning district are identified in MCC Section 20.12.060. Required setbacks in this MDR district are 20 feet (front), 10 feet (rear), and 5 feet (sides). The proposed structure would have a front setback of 20 feet, a rear setback of 17 to 19 feet, and side setbacks of 6 and 8 feet. The proposed setbacks are similar to those of the existing residence. The site coverage maximum in this MDR district is 35 percent, and the floor area ratio maximum is 45 percent. The existing lot is approximately 8,160 square feet, which would allow site coverage of approximately 2,856 square feet and floor area of approximately 3,672 square feet. The proposed single-family dwelling and attached garage would result in both site coverage and floor area of approximately 2,854 square feet (34.9 percent), an increase of 455 square feet over the existing 2,399 square feet (29.3 percent) of site coverage and floor area. The maximum allowed height in this MDR district is 18 feet. The height of the proposed structure would increase from approximately 14.85 feet to 17 feet. Staff has recommended Condition No. 6, Height Verification, to ensure the height of the finished structure conforms to the plans and the maximum allowed height limit.

### **Neighborhood Character and Design.**

The proposed residence is consistent with the size and scale of surrounding residences, and the bulk and mass would not contrast with the neighborhood character. The proposed dwelling would increase by 455 square feet, would remain a single-story structure, and would meet all applicable development standards. Also, the proposed design layout would be similar to the 2 adjacent properties on either side, as well as 8 other residences in the immediate vicinity. The County also granted a Variance to an adjacent residence to allow 45 percent coverage (a reduction from a non-conforming 51 percent). Therefore, County staff finds that the proposed single-family dwelling does not significantly increase the bulk and mass of the existing dwelling, and is consistent with the surrounding neighborhood character.

Pursuant to MCC Chapter 20.44, the proposed project site and surrounding area are designated as a Design Control Zoning District ("D" zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The proposed exterior colors and materials include earth-tone (light beige) stucco walls and natural wood roofing. The proposed exterior finishes blend with the surrounding environment, are consistent with the surrounding residential neighborhood character, and are consistent with other dwellings in the neighborhood. As proposed, the project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity.

### **Drainage.**

Based on the Drainage and Erosion Control Plan (see Plan Sheet A1.4 of Exhibit 2 to **Attachment B**) submitted by the Applicant, stormwater runoff from the proposed structure would be directed into curtain drains, gravel and dispersion trenches, and vegetated areas of the property. RMA-Environmental Services reviewed the submitted application materials, and applied conditions as necessary to ensure drainage or runoff design measures are implemented (Erosion Control Plan, Grading Plan, Stormwater Control Plan, inspections, and geotechnical certification - Condition Nos. 8, 9, 10, 11, 12, 13, 14, and 15).

**Private Views.**

Regarding the proposed height and its potential impact on views from the surrounding residences, private views are not protected under the Carmel Area Land Use Plan or applicable MCC.

**Interior Lighting.**

A proposed clerestory would add height to the proposed residence, and would face residences to the southeast; however, the County does not regulate interior lighting and does not protect private views. No evidence has been submitted that demonstrates how a clerestory would cause more light pollution than skylights, which were suggested as an alternative. Even with the clerestory, the proposed structure would remain one foot under the allowed maximum height. Also, many residences in Carmel Meadows have either skylights, second-stories, or second-story architectural features such as clerestories and roof decks.

**Staking and Flagging.**

The Applicant submitted photographs of the initial staking and flagging installed in August 2016. Allegedly, thick smoke from the Soberanes fire prevented neighbors from making an adequate assessment of visual impacts based on the initial staking and flagging, and that by the time the smoke cleared, wind had damaged large portions of the flagging. Therefore, the Applicant re-installed staking and flagging on or about March 29, 2017. As directed by the County, the Applicant installed orange netting to delineate the corners and ridge peaks of the proposed structure. The County did not require more extensive staking and flagging for the following reasons: the project site is not within the General Viewshed, as shown on Map A of the Carmel Area Land Use Plan; and the project does not involve ridgeline development. The County's adopted staking and flagging criteria allow flexibility and discretion in determining the scope of staking and flagging required for a project. Based on a County staff site inspection on March 30, 2017, the re-installed staking and flagging was intact and the weather clear enough for an adequate assessment of potential visual impacts. The re-installed staking and flagging provided sufficient visual reference for the County to determine potential visual impacts to the public viewshed and satisfied the County's requirement for review.

**Visual Resources/Public Viewshed.**

The project, as proposed, is consistent with the Carmel Area Land Use Plan (LUP) policies regarding Visual Resources (Chapter 2.2), and will have no impact on the public viewshed. The project planner conducted a site inspection on March 30, 2017, to verify that the project minimizes development within the public viewshed. The project site is not within the public viewshed and is not visible from Highway 1 due to screening from topography and existing structures. The proposed single-family dwelling would also not detract from the natural beauty of the surrounding undeveloped ridgelines and slopes in the public viewshed (LUP Policy 2.2.3.1). Also, per LUP Policy 2.2.3.6, the proposed structure would be subordinate to and blend into the environment, using appropriate exterior materials and earth tone colors that give the general appearance of natural materials. As proposed and conditioned, the structures would not create a substantially adverse visual impact when viewed from a common public viewing area.

## **Prior Project Recommendations and Decisions**

### **Carmel Unincorporated/Highlands Land Use Advisory Committee.**

Pursuant to the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, administrative (i.e., projects not requiring a public hearing) permits and design approvals are not normally sent to the LUACs for review. However, due to the requests for a public hearing, the project was referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. The LUAC reviewed the proposed project at a duly-noticed public meeting on April 17, 2017, and voted 3 – 0 to recommend approval with the following comments: 1) correct the eave overhang on the southeast corner; 2) thoroughly investigate the drainage; and 3) consider use of railing and/or transparent material instead of a solid wall for the roof deck and stairs leading to the deck. In response to the LUAC's recommendations and comments, the Applicant submitted revised plans to reduce the eave overhang on the southeast corner to comply with setback requirements. Regarding site drainage, Condition No. 10 requires the Applicant to submit a detailed stormwater control plan, which the County will review and approve prior to issuance of grading or building permits. Regarding the use of transparent material, the Applicant has chosen to retain the proposed design for the deck and stairs, which includes a solid wall around the deck area and metal stairs with steel stringer and treads.

### **Monterey County Zoning Administrator.**

The Monterey County Zoning Administrator, at a duly-noticed public hearing on April 27, 2017, found the project to be categorically exempt and approved a Coastal Administrative Permit and Design Approval to allow the proposed development (Monterey County Zoning Administrator Resolution No. 17-026; **Attachment D**).

## **Environmental Review**

California Environmental Quality Act (CEQA) Guidelines Section 15302 categorically exempts the replacement or reconstruction of existing structures where the new structure(s) will be located on the same site as the structure(s) replaced and will have substantially the same purpose and capacity as the structure(s) replaced. No further environmental review is required.

## **Appeal**

The Appellant (Courtney Meyers), pursuant to MCC Section 20.86.030.C, timely filed an appeal from the April 27, 2017, decision of the Monterey County Zoning Administrator to approve this project (**Attachment C**). The appeal challenged the Zoning Administrator's approval of the Coastal Administrative Permit and Design Approval, and contended that there was a lack of a fair or impartial hearing, and that the findings or decision or conditions are not supported by the evidence. In summary, the appeal raised three specific contentions:

- 1) The LUAC was improperly noticed, and the LUAC was not listed as a reviewing agency in the staff report prepared for the ZA public hearing on April 27, 2017;
- 2) the development was improperly staked and flagged to show that a proposed exterior stairway encroaches into the side setback, and the front south corner of the proposed building extends to the property boundary; and
- 3) LUAC comments and recommendations were not included in the staff report prepared for the

ZA public hearing on April 27, 2017, so the ZA heard them for the first time on the day of the public hearing.

The text of the Appellants' contentions (with duplicative statements removed) follow below, with a staff-proposed response for consideration by the Board:

**A. Appellants Contention: “The LUAC was improperly noticed (Noticed on Friday for a Monday hearing). We were notices (*sic.*) on Friday for a Monday hearing. LUAC not listed in reviewing agencies, and should have been included.”**

The Appellant argues that the LUAC public meeting was improperly noticed, and that the LUAC was not listed as a reviewing agency in the staff report prepared for the Zoning Administrator public hearing on April 27, 2017.

Pursuant to the Monterey County LUAC Procedure guidelines adopted by the Board of Supervisors on April 28, 2015, LUAC meetings shall be noticed, and the LUAC agenda shall be publicly posted, in accordance with the Brown Act. The Brown Act states: *At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one.*

The agenda of the Carmel Unincorporated/Highlands LUAC meeting for April 17, 2017, was publicly posted at the meeting location (Carmel Highlands Fire Protection District at 73 Fern Canyon Road, Carmel Highlands) at least 72 hours in advance of the meeting. The specific matter was listed on the agenda as Scheduled Item 1, Black Crow LLC. The County also posted the agenda on the RMA-Planning public website, and on a bulletin board outside the County's Government Center Building in downtown Salinas. The notice posting locations are freely accessible to members of the public, and the RMA-Planning public website also includes a map to the meeting location. Although not required by the Brown Act, the County also mailed notices to owners and occupants of properties within 300 feet of the project site. The County mailed the LUAC meeting notices on April 3, a full two weeks before the LUAC meeting date on April 17, 2017. Notices were mailed to both the Appellant's local and out-of-state address. The Appellant's statement also confirms that she received adequate notice of the LUAC meeting, as required by the Brown Act. County staff reviewed the Carmel Unincorporated/Highlands LUAC notice for April 17, 2017, and determined it provided accurate information regarding the project's general scope and location.

The LUAC held the public meeting in its regular location, the Carmel Highlands Fire Protection District (PBCSD) Conference Room, 73 Fern Canyon Road, Carmel Highlands. The meeting was held at its regularly-scheduled time, 4:00 p.m., on Monday, April 17, 2017. At the LUAC meeting, the LUAC members did not limit comment and all attendees, including the Appellant, were provided an opportunity to speak, and the public comments and LUAC review for this project lasted over one hour.

Regarding the listing of the LUAC as a reviewing agency under Other Agency Involvement, it is not the County's practice to list the LUAC as a reviewing agency in the staff report prepared for a project. If a project is reviewed by a LUAC, it is the County's practice to present separately under Other Agency Involvement information regarding the date the LUAC reviewed the project and, if available, comments and recommendations of the LUAC. The April 27, 2017, staff report to the Zoning Administrator identified that the project had been referred to the Carmel Unincorporated/Highlands LUAC, but that the LUAC's recommendation would not be available in time to include in the staff report and that County staff would inform the Zoning Administrator of the LUAC's recommendation at the public hearing on April 27, 2017.

**B. Appellants Contention: "Development was improperly staked. Proposed attached stairwell to deck is not staked or flagged and is potentially in the 5 foot side setback. Field staking and flagging is inaccurate. Front south corner of building goes all the way to edge of property and is incorrect (see attached photo). Also, exterior attached stairway to access roof top deck not staked."**

The Appellant argues that the development was improperly staked and flagged, that a proposed exterior stairway encroaches into the side setback, and the front south corner of the proposed building extends to the property boundary.

As directed by the County, the applicant installed orange netting to delineate the corners and ridge peaks of the proposed structure. The County did not require more extensive staking and flagging for the following reasons: the project site is not within the General Viewshed, as shown on Map A of the Carmel Area Land Use Plan; and the project does not involve ridgeline development. The County's adopted staking and flagging criteria allow flexibility and discretion in determining the scope of staking and flagging required for a project. Based on a County staff site inspection on March 30, 2017, the re-installed staking and flagging was intact and the weather clear enough for an adequate assessment of potential visual impacts. The re-installed staking and flagging provided sufficient visual reference for the County to determine potential visual impacts to the public viewshed and satisfied the County's requirement for review.

The proposed stairwell to the roof deck meets the required setback, as shown on page A1.3 of the proposed plans (see Exhibit 2 to **Attachment B**). The proposed stairwell is also shown on pages A1.4, A2.2, A2.4, A3.1, and R-1 of the proposed plans.

Following the LUAC's recommendation, the Applicant also submitted revised plans to reduce the eave overhang on the southeast corner to comply with setback requirements. The decision of the Zoning Administrator on April 27, 2017, included the revised plans.

**C. Appellants Contention: "LUAC suggestions and concerns were not included prior to the ZA hearing. They were heard for the first time at the hearing. See attached for specific conditions. LUAC's suggestions were not given to the ZA prior to the hearing, and were heard for the first time that day. LUAC had three recommendations, and the third recommendation was completely ignored. LUAC concerns recommended with a 3-0 vote to approve with the following recommendation - 1) length of the eave (addressed) ;2) drainage (addressed) and 3) railing (should be transparent). LUAC's lte**

**LUACm 3 recommendation wa not addressed at all and completely ignored as stated in lu (sic).”**

The Appellant argues that the LUAC comments and recommendations were not included in the staff report prepared for the Zoning Administrator public hearing on April 27, 2017, and were heard for the first time on the day of the public hearing.

As noted in the staff report prepared for the Zoning Administrator public hearing on April 27, 2017, the LUAC reviewed the proposed project on April 17, 2017; therefore, the comments and recommendation of the LUAC were not available for inclusion in the staff report and were added to the record at the Zoning Administrator public hearing. This is a common County practice for administrative projects that are referred to public hearing, does not violate process requirements, and does not minimize the concerns raised at the LUAC meeting. If a significant issue had been raised at or by the LUAC, then County staff could have modified its recommendation to the Zoning Administrator at the public hearing on April 27<sup>th</sup>.

Based on the LUAC’s comments and recommendation, the Applicant submitted revised plans to reduce the eave overhang on the southeast corner to comply with setback requirements. The County has applied Condition No. 10 to require the Applicant to submit a stormwater control plan, which the County will review and approve prior to issuance of grading or building permits. Regarding consideration of transparent material for the roof deck, the Applicant has chosen to retain the proposed design for the deck and stairs, which includes a solid wall around the deck area and metal stairs with steel stringer and treads. This is consistent with the LUAC’s recommendation to *consider* the use of transparent material.

In staff’s analysis, these contentions are without merit for the reasons stated in this discussion and in the draft resolution.