



County of Monterey

Item No.

Board Report

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

Legistar File Number: RES 25-104

July 01, 2025

Introduced: 6/20/2025

Current Status: Agenda Ready

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Matter Type: BoS Resolution

PLN210061 - JOHNSON HAL W JR & ALLISON H

Public hearing to consider an appeal of the Monterey County Planning Commission's decision to allow construction of a 3,525 square foot single-family residence, inclusive of a 244 square foot single-car garage and associated site improvements; approximately 3,095 square feet of development on slopes in excess of 30%, 500 square feet of which is for the residence and 2,611 for the associated site improvements; removal of four protected trees; development within 50 feet of a coastal bluff; and development within 750 feet of known archaeological resources.

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

Proposed California Environmental Quality Act ("CEQA") action: Adopt a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074 and adopt a Mitigation Monitoring and Reporting Plan.

RECOMMENDATION:

It is recommended that the County of Monterey Board of Supervisors adopt a resolution:

- 1) Adopting a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074;
- 2) Denying an appeal of the Monterey County Planning Commission's May 28, 2025 decision to approve the Combined Development Permit (PLN210061); and
- 3) Approving a Combined Development Permit consisting of a:
 - a. Coastal Administrative Permit and Design Approval to allow construction of a 3,525 square foot single-family residence with an attached garage, and associated site improvements including an auto-court, access road improvements, patios, an emergency fire access stairway, tiered retaining walls, septic tank, installation of a centralized water quality treatment for the Highway 1 Water Distribution System #12, and approximately 400 lineal feet of sewer line;
 - b. Coastal Development Permit to allow development within 50 feet of a coastal bluff;
 - c. Coastal Development Permit to allow the removal of four trees, including three Monterey cypress and one Monterey pine;
 - d. Coastal Development Permit to allow 3,095 square feet of development on slopes in excess of 30%;
 - e. Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
- 4) Adopting a Condition of Approval and Mitigation Monitoring and Reporting Plan.

The attached draft resolution includes findings and evidence for consideration (**Attachment B**). Staff recommends denial of the appeal and approval of the project 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 project consists of constructing a single-family residence and associated site improvements on a vacant, highly constrained lot in the Carmel Highlands. The residence would be 3,525 square feet, inclusive of a 244 square foot single-car garage. The project also involves approximately 3,095 square feet of development on slopes in excess of 30% (500 square feet for the residence, and 2,095 for the associated site improvements), removal of four protected trees (three Monterey cypress and one Monterey pine), development within 50 feet of a coastal bluff, and development within 750 feet of known archaeological resources. Earthwork associated with the project involves approximately 700 cubic yards of cut and 390 cubic yards of fill.

The project was considered by the County of Monterey Planning Commission on October 30, 2024 and again on May 28, 2025. After public testimony and deliberation, at the October 2024 hearing the Planning Commission initially made a motion of intent to deny the project as it was proposed, continuing the hearing on the item to a date uncertain. The primary issues raised at the October hearing were the scale of development given the constrained nature of the site, particularly development on slopes and whether setback Variances) were appropriately justified. The Commission also had questions on the visual resources policies of the Carmel Area Land Use Plan and the geologic hazards analysis.

After the October 2024 hearing, the applicant's agents requested the opportunity to redesign the project to address the issues raised by the Planning Commission. Staff met with the applicants several times over the following months and in April 2025 they submitted revised plans with supplemental materials. The revised plans reduce the amount of development on slopes, the amount of grading, and the number of trees proposed for removal. The revised plans also minimize the visibility of structures from public viewing areas, eliminate the need for Variances, and addressed geologic hazard concerns raised. The revised proposal aligns with the constrained nature of the site and the underlying intent of the LUP and its implementing regulations (Coastal Implementation Plan; Part 4), which require subordinating development to its surrounding environment. The project returned to the Planning Commission on May 28, 2025. There, the commission unanimously adopted a resolution approving it with the revised design.

On June 9, 2025, the County received a timely appeal by Rutan and Tucker, LLP, representing the owners of the property at 230 Highway 1. The appeal contends that the project does not conform to key provisions of the Carmel Area Land Use Plan (LUP) and Monterey County Coastal Implementation plan (CIP) regarding development on slopes in excess of 30 percent, retention of native vegetation and trees, and scenic resources. It also contends that there is a fair argument of significant environmental impacts necessitating preparation of an Environmental Impact Report (EIR), and that the Planning Commission did not approve or justify Variances that would be needed for the project.

County staff have reviewed the contentions and do not believe they have merit. The project has been reviewed thoroughly for consistency with the policies of the LUP and the regulations in the CIP. Through the development review process the applicants responded to several rounds of comments and substantially re-designed the project in order to conform to the LUP and CIP. Our analysis is that the Mitigated Negative Declaration is the appropriate and is supported by substantial evidence. As designed, the project would also not require setback Variances, which is consistent with the interpretation for structures below grade dated December 28, 2006. Therefore, staff are recommending denial of the appeal and approval of the project.

Compiled public comments from the previous hearings, including from the applicant and appellant, are included in **Attachment G** for reference.

DISCUSSION:

A detailed discussion is included in **Attachment A**.

OTHER AGENCY INVOLVEMENT:

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, including one for this property, and the project did not entail an additional water system connection, it would not be required to amend the WDS permit but MPWMD would require a water permit to ensure that the number of water fixtures do not exceed the production limitations imposed by the WDS permit. Should the project be approved, the water permit would be secured during the construction permit process.

The County also referred the project to Caltrans District 5 for review. Caltrans staff stated that the project would require an encroachment permit from their office and encouraged concurrent submittal and review of the County permitting and Caltrans permits. The applicants submitted their application for an encroachment permit to Caltrans for its review.

The project's Can and Will serve letter from the Carmel Area Wastewater District (CAWD) references a private "Highlands Point" association that manages the sewer lateral for this area. Staff reached out to CAWD staff regarding the project. CAWD's district engineer indicated that it would require authorization from the properties served by this system prior to issuance of a sewer connection permit. Therefore, Condition of Approval No. 28 is recommended, which requires a sewer connection permit from CAWD prior to issuance of grading or building

permits. At the October 30, 2024 hearing, the project proponents objected to the language of Condition of Approval No. 28, as it required individual approval of the members of the Highlands Point association. At the hearing, staff prepared revised condition language that would require the applicant to provide the County with an approved sewer connection permit from CAWD, but not approval from the Highlands Point Association. After the hearing, CAWD staff reviewed the revised language and did not see the justification for the change, as approval from the association would be required for their permit process, and it is an issue the applicant must address regardless. Staff understands this perspective, but recommends that the revised language be retained; such language does not require direct approval from the Highlands Point association. This removes the County from the position of interpreting a private management agreement between several property owners.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (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 an Initial Study to determine if the Project may have a significant effect on the environment. Should the Lead Agency find no substantial evidence that the Project or any of its aspects may cause a significant effect on the environment, it shall prepare a Negative Declaration (or, if this finding may be reached with mitigation applied, as here, a Mitigated Negative Declaration) if there is.

The Initial Study and Mitigated Negative Declaration (**Attachment 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).

All other subject areas studied for project impacts would either 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 the Initial Study during the circulation period, which is also attached to the Notice of Appeal **Attachment D**. Responses to the key contentions in the comment letter are included in the draft resolution **Attachment B**. Additionally, in response to comments, staff clarified, amplified, and corrected specific sections of the Initial Study, which are indicated in strikethrough and underline in **Attachment C**. However, none of the raised concerns or alterations trigger the requirement to recirculate the Initial Study and Mitigated Negative Declaration pursuant to CEQA Guidelines section 15073.5.

FINANCING:

Funding for staff time associated with this project is included in the FY2024-25 and FY2025-26 Adopted Budgets for HCD, Appropriation Unit HCD002, Unit 8543.

Flat fees were charged for the initial permit application and for the preparation of the Initial Study and Mitigated Negative Declaration to partially recuperate costs associated with permit

processing and environmental review. However, no fee is charged for the appeal of Coastal Development Permits appealable to the California Coastal Commission.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

☒ Administration

☐ Economic Development

☐ Health & Human Services

☐ Infrastructure

☐ Public Safety

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 (**Attachment F**).

Prepared by: Phil Angelo, Senior Planner x5731

Reviewed and Approved by: Craig Spencer, HCD Director

The following attachments are on file with the HCD:

Attachment A - Discussion

Attachment B - Draft Resolution, including:

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

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

Attachment D - Notice of Appeal

Attachment E - Planning Commission Resolution No. 25-013

Attachment F - Carmel Unincorporated/Highlands LUAC Meeting Minutes

Attachment G - Compiled Public Comments

Attachment H - Vicinity Map

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; Christina McGinnis, Keep Big Sur Wild; Project File PLN210061.