

FINAL

**MONTEREY COUNTY ZONING ADMINISTRATOR
September 11, 2003
MINUTES**

A. ROLL CALL:

Present:	Water Resources	Shaunna Juarez
	Public Works	Bryce Hori
	Zoning Administrator	Mike Novo
	Senior Secretary	Linda Rotharmel
Absent:	Water Resources	Al Mulholland
	Environmental Health	Laura Lawrence

B. PUBLIC COMMENT: None

C. APPROVAL OF MINUTES: The Minutes for the August 28, 2003, meeting were approved with the deletion of Chair and Vice Chair and changing Planning and Building Inspection for Mike Novo to Zoning Administrator.

D. DESIGN APPROVALS: None Scheduled

E. SCHEDULED ITEMS:

1. WACHS JOHN DENNIS (PLN020045)

COMBINED DEVELOPMENT PERMIT CONSISTING OF AN ADMINISTRATIVE PERMIT FOR THE CONSTRUCTION OF A 588 SQ. FT. DETACHED GUESTHOUSE AND THE REMOVAL OF ONE 16 INCH VALLEY OAK; A VARIANCE TO REDUCE THE REQUIRED FRONT SETBACK FROM 50 FEET TO 28 FEET 6 INCHES; AND DESIGN APPROVAL. THE PROPERTY IS LOCATED AT 25 ENCINA DRIVE, CARMEL VALLEY (ASSESSOR'S PARCEL NUMBER 187-091-008-000), NORTHERLY OF THE INTERSECTION OF MIRAMONTE ROAD AND ENCINA DRIVE, CARMEL VALLEY MASTER PLAN AREA.

Brett Becker described the project and amended the setback to 22 feet 6 inches. The Carmel Valley Land Use Advisory Committee recommended approval with a condition for down-lighting/shaded lights as a condition of approval.

John Wachs spoke regarding nearby properties that have development located within the 50' front yard setback.

Bud McDonald spoke and was concerned with the height limit, setbacks, easements, and encroachments and requested the property be surveyed.

Colburn Jones read a letter into the record from Howard and Karin Evans and David Reade, Howard Evans, Scott Simms, Bud McDonald, and Colburn Jones in opposition of the project.

On rebuttal, Wachs stated the project could not be viewed by other property owners, many other variances had been granted in the neighborhood, and the property was constrained.

After discussion with the project planner regarding other potential sites, the Zoning Administrator amended Finding #2, Evidence (a), to add "Moving the structure anywhere else on the property would result in development on slopes over 30% or would require greater tree removal or be more visible from Los Laureles Grade."

After discussion, the Zoning Administrator approved the project subject to the amended Findings and Evidence and subject to the recommended conditions of approval.

2. PACIFIC GEM ASSOCIATES LLC (PLN030122)

Combined Development Permit consisting of: 1) a Coastal Administrative Permit for demolition of 492 sq. ft. of an existing 4,599 sq. ft. three-story single family residence and construction of a 1,184 sq. ft. first-story addition; a 1,248 sq. ft. second-story addition; a 986 sq. ft. third-story addition; and a 428 sq. ft. garage addition (total structural coverage is 4,579 sq. ft.); removal of 1,030 sq. ft. of impervious surface and the addition of 1,604 sq. ft. of impervious surface (total impervious surface coverage is 3,964 sq. ft.); 2) a Coastal Development Permit for a waiver of the policy prohibiting development on slopes greater than 30%; 3) a Coastal Development Permit for development within 100 feet of mapped or field identified environmentally sensitive habitat; Grading (150 cubic yards of cut/fill); and Design Approval.

Brett Becker described the project. The Del Monte Forest Land Use Advisory Committee recommended approval with no changes.

The Zoning Administrator changed "may" to "would" in Finding #2, Evidence (a), modified Condition #5 (6 after number change) to add at the end of the first sentence ". . . except the area approved for development under this permit" and at the end of the last sentence ". . . and recorded prior to final inspection." Condition #11 (12 after number change) was changed to add at the end of the sentence ". . . and shall be included on the Building Permit plans."

Jun Sillano, representative for Pacific Gem Associates concurred with the amended conditions of approval.

After discussion, the Zoning Administrator approved the project subject to the amended change in Finding 2(a) and subject to the modified conditions of approval.

- 3. COUNTY OF MONTEREY (PLN030183)**
COASTAL DEVELOPMENT PERMIT TO ALLOW FOR THE CONSTRUCTION OF A 1,200 SQ. FT. ONE-STORY MODULAR UNIT FOR A MONTEREY COUNTY PUBLIC WORKS' FACILITIES AND CONSTRUCTION OFFICE BUILDING LOCATED ON AN EXISTING CONCRETE PARKING AREA. THE PROPERTY IS LOCATED AT 1171 SAN MIGUEL CANYON ROAD, PRUNEDALE (NO ASSESSOR'S PARCEL NUMBER ASSIGNED), NORTH COUNTY, COASTAL ZONE.

The Zoning Administrator described the project and stated correspondence was received regarding the operation of the project.

After discussion, the Zoning Administrator approved the project subject to the Findings and Evidence and subject to the recommended conditions of approval.

- 4. KLEISSNER KARL & LISA L K KLEI (PLN020392)**
CONTINUED FROM 8/28/03. COMBINED DEVELOPMENT PERMIT AND DESIGN APPROVAL INCLUDING: A COASTAL ADMINISTRATIVE PERMIT TO ALLOW CONSTRUCTION OF A NEW DETACHED 1,380 SQUARE FOOT 3-CAR GARAGE FOR AN EXISTING HOUSE, A 420 SQUARE FOOT GUESTHOUSE ATTACHED TO THE GARAGE, PERIMETER GRAPE STAKE FENCE, AND RELOCATION OF AN EXISTING DRIVEWAY; A COASTAL DEVELOPMENT PERMIT FOR DEVELOPMENT IN THE CRITICAL VIEWSHED; A COASTAL DEVELOPMENT PERMIT FOR DEVELOPMENT IN A PARCEL WITH A POSITIVE ARCHAEOLOGICAL REPORT. THE PROPERTY IS LOCATED AT 35678 HIGHWAY 1, BIG SUR (ASSESSOR'S PARCEL NUMBERS 243-231-013-000, 243-231-015-000, AND 243-231-016-000), SOUTHWEST OF THE GARRAPATA CREEK BRIDGE ADJACENT TO THE PACIFIC OCEAN, COASTAL ZONE.

Lautaro Echiburu described the project and stated there were modifications made to staff report.

The Zoning Administrator stated an appeal was filed 9/10/03, on the decision as to whether this should be properly before this body or not and the appeal is valid. The Zoning Administrator agrees with Staff's decision to send this application to this hearing body and feel it is a proper application before the Zoning Administrator. However, the appeal filed regarding staff's administrative interpretation is consistent with the provisions of the Coastal Implementation Plan and should be allowed to run its course prior to the Zoning Administrator's decision. The Zoning Administrator took testimony regarding this issue.

Mark Blum, on behalf of the applicants, understood that staff had determined that the appeal process could go forward because staff concluded after a staff management meeting that there was no potential to interrupt the process of this hearing. He stated that there is a right

of appeal directly to the Board of Supervisors, so there is a full and complete opportunity to air this issue and a full and complete remedy if the appellant is not satisfied with the decision.

John Bridges, represented the appellants, the Schapira's and stated that the appeal isn't something that is decidable here. The Administrative Interpretation Appeal should be decided by the Planning Commission in the first instance and potentially ultimately by the Board of Supervisors. He stated the appeal has two components: 1) Whether or not the project should be referred by either the Zoning Administrator or the Planning Director, to the Planning Commission and 2) the efficiency of the public process is at stake. The appeal is going to go to the Planning Commission. He requested a further continuance because his clients were not available and feels there is also a fairness and due process question. He urged the Zoning Administrator to take formal action to refer the project to the Planning Commission and therefore the appeal and the merits can be heard in one hearing, otherwise he believes that legally a stay of this hearing is in order because of the pending appeal.

The Zoning Administrator stated the two issues: 1) the staying of the appeal of the administrative interpretation and 2) whether it should be sent to the Planning Commission by the Zoning Administrator based on Ordinance requirements. Section 20.04.030(f) states: "In addition to those items designated in the Zoning Districts (ZA) to be heard by the Zoning Administrator, the Director of Planning and Building Inspection may also designate the Zoning Administrator as the appropriate authority to consider other Coastal Development Permits, provided said permits do not involve the following factors: significant public policy issues, unmitigable significant adverse environmental impacts, significant changes in the nature of the community or area, establishments of precedents or standards by which other projects will be measured . . ." and it talks about the ability for the Zoning Administrator to refer the matter to the Planning Commission. He has reviewed the application, staff report, and staff analysis and none of those triggers apply in this case. He did not see any significant public policy issues. It is a sensitive site, but does not mean he should not make the decision. There are no unmitigable significant environmental effects; if there were there would have to be an EIR. He did not find any significant changes in nature of community or area. It is a significant site on the Big Sur Coast, but is not a significant change in the area or in the nature. There are no new precedents or standards by which other projects will be measured. On the second point, he felt it is properly before this body. Regarding the first point on whether to stay this application based on the appeal, there will be opportunity to go before a decision maker on appeal. He was concerned about due process. His decision was to go forward with the hearing.

Lautaro Echiburru made modifications to the staff report to describe recent project modifications. There was discussion regarding the driveway and the fire turn out and turn around and which parcel(s) were involved.

Mr. Bridges, representing the Schapira's, stated that he would need time to review so many changes. He was also concerned with potential significant environmental impacts associated with that turn out. It needs to be designed before we have a hearing and needs to be assessed because there are habitat issues, tree issues, and there is no forest management plan. He requested a continuance due to the above facts and that his clients were not present.

Mark Blum, for applicants, stated the changes were not new because they were discussed fully at the site visit. The only arguably new issue is the turn out. The applicants will demonstrate that there is an existing turn out or if not, they will have to submit plans for a turn out. If it has to be a turn out it will be a new project and come back here for rehearing. According to Mr. Najera, Carmel Fire Protection Association, who has jurisdiction over this project, the turn out on Parcel 13 meets the width and length requirements and doesn't require any development. They don't require the surface to be improved, any flat ground is sufficient if a car can pull over into it to allow the fire truck to pass by. He also discussed the alternative driveway on the property used to move materials and stage them next to the existing driveway.

Lisa Kleissner, applicant, spoke of the turn out, pull out and the turn around that has existed since they have owned the property and exceeds the distance needed.

Mark Blum noted for the record that there are no members of the public here. There is only Mr. Bridges as the representative of the neighbor to the south, Mr. and Mrs. Schapira.

John Bridges appreciated that Mr. Blum acknowledged that no one was in the audience, especially not his clients, who have no opportunity to respond or offer their direct input. Several of the changes go to the essence of the project description and the project description is important in terms of public notice and fundamental due process. He believes a continuance is in order, the project re-noticed, and a new hearing date set.

After discussion, the Zoning Administrator, due to the changes made to the staff report, continued the item to September 25, 2003.

F. OTHER ITEMS: None

G. ADJOURNMENT: 11:09 a.m.

ATTEST:

MIKE NOVO
Zoning Administrator

/lmr