

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> March 12, 2009	<b>Time:</b> 1:45 P.M	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> A Variance to allow a 108 square foot addition to an existing 3,267 square foot single family residence resulting in an increase in the floor area ratio from 88.6% to 91.6% in the MDR zoning district; and Design Approval.		
<b>Project Location:</b> 3307 17 Mile Drive, Pebble Beach		<b>APN:</b> 008-521-003-000
<b>Planning File Number:</b> PLN080514		<b>Name:</b> Charles and Lenore Brown, Property Owners/ International Design Group, Agents
<b>Plan Area:</b> Del Monte Forest Land Use Plan		<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> “MDR/2.7-D (CZ) [Medium Density Residential, 2.7 units per acre with Design Control (Coastal Zone)]		
<b>CEQA Action:</b> Categorically Exempt per Section § 15301e – Minor addition/15305 – Minor Variance		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Variance based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**)

### PROJECT OVERVIEW:

This project was continued from February 26, 2009 because a condition placed upon the project required a Coastal Development Permit if the concrete slab in the location of the expansion needed to be removed. The condition was based upon the understanding that the site is within 750 feet of a known archaeological resource. An archaeologist’s report has revealed that the site is not actually within 750 feet of a known archaeological resource, so no Coastal Development Permit is required.

The project is located in the Pebble Beach Town Homes No. 2 Subdivision in Pebble Beach. The applicant proposes to add a 108 square foot addition to the existing 3,267 square foot single family residence (including garage). The project involves expanding the living area of the single family residence under an existing extended roof area. There is also an interior redesign that does not require any discretionary approvals. The project will not result in any modification or extension of the existing roof. A Coastal Administrative Permit is not required because the project constitutes a minor expansion of the existing building. A Variance for the site coverage is not required because the area in which the building expansion is taking place is already included within the site coverage calculations. It does not constitute an expansion of coverage.

### DISCUSSION

The Variance is needed to exceed the established Floor Area Ratio allowed in the Medium Density Residential (MDR) Zoning District. This particular development was approved and constructed in the late 1960’s as a Townhouse Style development and does not comply with the area, or setback standards established in the MDR zoning district. Approval of the Variance is justified in this case since the required findings show that special circumstances apply to the subject property, and the Variance would not constitute the granting of a special privilege nor would it create a use not otherwise allowed under the MDR zoning designation. Similar Variances have been granted in this area. These findings are more fully explained in the Findings and Evidence in **Exhibit B**.

**OTHER AGENCY INVOLVEMENT:**

- ✓ Pebble Beach Community Services District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. A condition recommended by Water Resources Agency has been incorporated into the condition compliance reporting plan (**Exhibit C**).

The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review because the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338 requires LUAC review of variances. The Del Monte Forrest Land Use Advisory Committee did not have any concerns with the Variance. They recommended approval of the Variance with a unanimous (5-0) vote.

Note: The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

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 February 26, 2009

Cc: Zoning Administrator; California Coastal Commission; Pebble Beach Community Services District; Public Works Department; Environmental Health Division; Water Resources Agency; Laura Lawrence, Planning Services Manager, John Ford, Planner; Carol Allen, Charles and Ann Brown, Applicants; International Design Group, Agent; Planning File PLN080514.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Recommended Findings and Evidence
	Exhibit C	Recommended Conditions of Approval
	Exhibit D	Vicinity Map
	Exhibit E	Site Plan, Elevations, Floor Plans

This report was reviewed by Laura Lawrence, Planning Services Manager



## **EXHIBIT B**

### **RECOMMENDED FINDINGS AND EVIDENCE**

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Del Monte Forest Land Use Plan, Del Monte Forest Coastal Implementation Plan (Part 5), and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for residential development.

- EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- (b) The property is located at 3307 17 Mile Drive, Pebble Beach (Assessor’s Parcel Number 008-521-003-000), Del Monte Forest Land Use Plan. The parcel is zoned Medium Density Residential, 2.7 units per acre in the Design Control District, Coastal Zone (“MDR/2.7-D (CZ)”).
- (c) The subject site is developed with a town home that was originally approved and constructed in 1968 as part of the Pebble Beach Town Homes Subdivision. The existing town home on site is constructed consistent with the design scheme in this development. The MDR/2.7-D (CZ) zoning district was placed on the property after construction of this development. A Variance is the appropriate means to approve the subject request. Variances are allowed in unique situations where stringent implementation of the zoning code requirements would preclude the property owner’s use their property similar to other property that is not encumbered with unique circumstances. This property is unique in that it is a town home development and not a standard single family subdivision.
- (d) Title 20 Section 20.70.120 allows additions to single family residences of less than 1,000 square feet without requiring a Coastal Development Permit. The proposed addition is less than 1,000 square feet.
- (e) The project planner conducted a site inspection on January 26, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- (f) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. The current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, require applications for a variance to be reviewed by the LUAC. The LUAC did not have any concern with the proposed project. They recommended approval of the variance with a unanimous (5-0) vote.
- (g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN080514.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:** (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Pebble Beach Community Services District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication

from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- (b) The site is developed with a town home style development. This addition is consistent with the style of development and does not change the development scheme in any way. The addition to the town home is consistent with the architectural design of the structure. It does not change any roof line, or add an element that is not currently part of the design.
- (c) Although the site is located in a highly sensitive archaeological resource area, the archaeological survey prepared by Archaeological Consulting Services on February 26, 2009 did not find any evidence of prehistoric resources on site and determined that the project should not be held up for archaeological reasons. A condition will be added to have a archaeological monitor on site during removal of the slab and for any trenching.
- (c) No Technical reports were required by outside consultants as the additions are located an existing foundation. There are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed.
- (d) Staff conducted a site inspection on January 26, 2009 to verify that the site is suitable for this use.
- (e) Materials in Project File PLN080514.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- (a) California Environmental Quality Act (CEQA) Guidelines Section 15301(e) categorically exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. This addition is 108 square feet or 3 percent of the existing floor area.
  - (b) California Environmental Quality Act (CEQA) Guidelines Section 15305 categorically exempts minor variances. This is a minor variance that will not change the development scheme of the Pebble Beach Town Homes or the subject home.
  - (c) No adverse environmental effects were identified during staff review of the development application during a site visit on January 26, 2009.
  - (d) See preceding and following findings and supporting evidence.

4. **FINDING: VARIANCE (SPECIAL CIRCUMSTANCE)** – There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. As a result, the strict application of Title 20 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Although it was determined that special, circumstances exist, Variances are granted on a case-by-case basis and the findings and evidence for this project do not necessarily apply to other parcels.

- EVIDENCE:**
- (a) The subject property is located in the Pebble Beach Town Homes No. 2 Subdivision created in 1968 (SB00443). The Pebble Beach Town Homes Subdivision consists of individual building envelopes surrounded by

common open space. The project was legally constructed, and subsequently was zoned MDR/2.7-D (CZ).

- (b) The subject site is part of part of a townhouse style development with many small building lots and a large common open space. The entire subdivision is approximately 381,924 square feet in size, with 23 building envelopes covering approximately 132,473 square feet (35%), leaving the remaining 249,451 square feet as common open space (65%). In 1968 lot coverage for the then existing Special Treatment Zoning Designation was determined by density rather than as a percentage of each individual building lot. The development as a whole complies with the coverage requirements.
- (c) The current zoning district floor area ratio standards (MDR/2.7-D (CZ)) are intended to apply to single family lots that have a building pad and open space contained within each lot. The lots within the Pebble Beach Town House Subdivision are not intended to be able to provide open space within each individual ownership lot. Each lot is essentially a building envelope (achieving the intent of the Floor Area Ratio), the light and open space elements are provided on the common open space lot that all the homeowners have a common interest in. Lot coverage and floor area ratio limitations were not intended to apply to these building envelopes. Unfortunately, alternative zoning provisions were not specified either as part of the original project or in the subsequent zoning of the project. The result is nonconforming lots that can not accommodate the existing development scheme if subjected to the strict application of the MDR/2.7 zoning development standards.
- (d) Minor additions to these structures are consistent with the development scheme, but are inconsistent with the strict application of the zoning development standards. The subject request is consistent with the style and intensity of development within the Pebble Beach Town Homes Subdivision. Therefore, strict interpretation of the zoning ordinance presents a hardship to the property owner seeking to construct an addition within the building envelope without exceeding floor area ratio requirements.
- (e) Materials and documents in Project File No. PLN080514.

**5. FINDING: VARIANCE (SPECIAL PRIVILEGE):** - The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification in which such property is situated.

- EVIDENCE:**(a) This project will not constitute a special privilege as floor area ratio is intended to control bulk and mass of structures in proportion to the size of the parcel and thus preserve light and air space. The project as proposed would add 108 square feet of floor space to an existing 3,267 square foot residence. Since the addition is under the existing roof overhang the coverage of the house will not change.
- (b) The Floor Area Ratio will increase from 88.6% to 91.6%. In this particular case the building envelopes are surrounded by common space preserving the light and air space between buildings.

- (c) The proposed addition does not alter setbacks, will not be visible from a common public viewing area (17 Mile Drive), and will not add to the bulk or mass.
- (d) Research of Planning and Building Inspection Department files revealed that similar Variances were granted to
  - Johnson (PLN990270- APN 008-551-007-000), was a 198 square foot addition (unknown impact upon coverage or FAR.)
  - Clark (PLN020443-APN 008-521-007-000), was a 240 square foot addition increasing the site coverage from 59.7% to 63.9% and increasing the FAR from 67.1% to 71.3%.
  - Funch (PLN040070-APN 008-521-005-000) was a 1,183 square foot addition increasing the coverage from 63.5% to 65.9% and increasing the FAR from 49.2% to 68.9%.
  - Gentner (PLN060628- APN 008-521-008-000) was a 1,298 square foot addition that increases the site coverage from 79% to 82% and increased the FAR form 100% to 126%.
- (e) The strict application of the MDR/2.7 district requirements would restrict development on this parcel and other properties in the Pebble Beach Town Homes subdivision to a greater degree than other properties in the general vicinity. Therefore, approval of this Variance would not constitute a special privilege inconsistent with privileges granted to other properties in the vicinity.
- (f) Materials and documents in Project File No. PLN080514.

6. **FINDING: VARIANCE (AUTHORIZED USE):** - This project will not constitute a grant for an activity or use otherwise not expressly authorized by the zone regulation governing the parcel of property.

**EVIDENCE:** (a) The site was approved as a town home development in 1968. The MDR/2.7-D (CZ) allows one dwelling on each lot within the subdivision.  
 (b) The use is for single family residential which is allowed per Section 20.12.040.A, Principal Uses Allowed in the Medium Density Residential designation.  
 (c) The approval of this variance will not in anyway change the use of the property.

4 **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 reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

5. **FINDING: HEALTH AND 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.  
(b) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN080514.

6. **FINDING:** **PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan (Part 1), can be demonstrated.

- EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access.  
(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 16 (Shoreline Access) of the Del Monte Forest Land Use Plan.  
(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.  
(d) Site visits by the project planner on January 26, 2009.

5. **FINDING:** **APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:** (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).  
(b) Section 20.86.080.A.1 of the Monterey County Coastal Implementation Plan - Part 1 (Coastal Commission).



<b>EXHIBIT C</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> , <u>Brown, Charles and Ann</u> <b>File No</b> <u>PLN080514</u> <b>APNs:</b> <u>008-521-003-000</u> <b>Approved by:</b> <u>Zoning Administrator</u> <b>Date:</b> <u>March 12, 2009</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. Number</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>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Variance and Design Approval (PLN080514) allows a 108 square foot addition to an existing 3,267 square foot bi-level single family dwelling, resulting in an increase in the Floor Area Ratio from 88.6% to 91.6%. The property is located at 3307 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-521-003-000), Del Monte Forest Land Use 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 the RMA - Planning Department. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. <b>(RMA - Planning Department)</b>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
2.		<p><b>PD002 - NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: "A permit (Resolution 080514) was approved by the <b>Zoning Administrator</b> for Assessor's Parcel Number 008-521-003-000 on February 26, 2009. The permit was granted subject to six (6) conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. <b>(RMA - Planning Department)</b></p>	<p>Proof of recordation of this notice shall be furnished to the RMA - Planning Department.</p>	<p>Owner/ Applicant</p>	<p>Prior to the issuance of grading and building permits or commencement of use.</p>	
3.		<p><b>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</b></p> <p>An archaeologist or archaeological monitor shall be on site during removal of the concrete slab. 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 RMA - Planning 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. <b>(RMA - Planning Department)</b></p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning 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>	

<i>Permit Cond. Number</i>	<i>Mitig. Number</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>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		<b>PD032 - PERMIT TIME/YEAR &amp; DATE</b> The permit shall be granted for a time period of four years, to expire on March 11, 2013 ( <b>RMA – Planning Department</b> )	None	Owner/ Applicant	As stated in the conditions of approval	
5.		<b>WR40 - WATER CONSERVATION MEASURES</b> 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: 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. 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. ( <b>Water Resources Agency</b> )	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	
6.		<b>WR43 - WATER AVAILABILITY CERTIFICATION</b> 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. ( <b>Water Resources Agency</b> )	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	

Rev. 03/12/07

**END OF CONDITIONS**