

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03085

A. P. # 008-351-021-000

FINDINGS AND DECISION

In the matter of the application of  
**Tescher Levett Investments, Inc. (PLN020042)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located at 3200 Palmero Way, Pebble Beach, Del Monte Forest Area, Coastal Zone, came on regularly for hearing before the Planning Commission on \*, 2003.

WHEREAS: Said proposal includes:

- 1) Coastal Administrative Permit and Design Approval for constructing a new, 3-story, 6,881 sq. ft. single family home with an attached 3-car garage;
- 2) A Coastal Development Permit for a 590 sq. ft. attached caretaker's unit;
- 3) A Coastal Development Permit to remove 31 regulated trees consisting of 12 Coast Live Oaks and 19 Monterey Pines; and
- 4) A Coastal Development Permit to allow development of an access driveway in slopes greater than 30%.

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING – CONSISTENCY:** The Project, as conditioned, is consistent with applicable plans and policies, Del Monte Forest Land Use Plan, Coastal Implementation Plan (Part 5), and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

**EVIDENCE:**

(a) **Site Description.** The subject lot is 1.07 acres in size and the zoning designation requires a minimum of 1.5 acres for parcels in this district. The parcel is a vacant legal lot of record located on the north side of Palmero Way north of 17-Mile Drive in the Pebble Beach area (APN: 008-351-021-000).

(b) **Land Use.** The site is designated as Low Density Residential in the Del Monte Forest Land Use Plan, Local Coastal Program. The parcel is zoned Low Density Residential, 1 unit per 1.5 acres, Design Overlay, Coastal Zone [LDR/1.5-D (CZ)].

(c) **Plan/Code Conformance.** The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with the:

- (1) Del Monte Forest Land Use Plan
- (2) Monterey County Coastal Implementation Plan - Part 5 (Regulations for Development in the Del Monte Forest Land Use Plan Area - Chapter 20.147);
  - Chapter 20.147.040. Environmentally Sensitive Habitat.
  - Chapter 20.147.050. Forestry and Soil Resource.
  - Chapter 20.147.070. Scenic and Visual Resources.

- (3) Monterey County Coastal Implementation Plan – Part 1 (Zoning Ordinance - Title 20).
- Chapter 20.14. Principal and Conditional Uses Allowed in the LDR zoning district.
  - Chapter 20.44. Design Guidelines for projects located within the coastal zone.
  - Chapter 20.64.030. Development Standards for Caretaker Units.
  - Chapter 20.64.230. Regulations for Development on Slopes in excess of 30%.

With the recommended conditions, there would be no conflict or inconsistencies with the regulations of these plans or policies.

(d) Permits. The LDR zone allows the first single family dwelling (Section 20.14.040.A CIP) with a Coastal Administrative Permit. Caretaker units are allowed in the LDR zone with a Coastal Development Permit (Section 20.14.050.I CIP) meeting development standards of Section 20.64.030 CIP. The LDR zone requires the Planning Commission to consider Coastal Development Permits for development on slopes in excess of 30% (Section 20.14.030.C CIP) and tree removal (Section 20.147.050 CIP).

(e) Development Standards. Proposed set backs (120' front/20-25' sides/30' rear) meets the minimum requirements (30' front/20' sides/20' rear) for habitable accessory structures in the LDR zone. The proposed height is 28.8 feet and the maximum allowed is 30 feet. Maximum floor area ratio (FAR) allowed for the LDR/1.5 zone is 17.5% and the proposed project has 15% FAR. The coverage for buildings (4,888.5 sf) and impervious surfaces (4,000 sf) does not exceed 9,000 square feet. Also see Finding #7.

(f) Environmentally Sensitive Habitat (ESHA). Prior biological assessments have determined that the Del Monte Forest includes sensitive habitats that have some rare and endangered species. The building site consists of Coast Live Oak woodland with a few Monterey pine trees. The following assessments were prepared for the subject site in accordance with Section 20.147.040.A CIP:

- Teschler Property Biological Assessment, APN: 008-351-021. August 25, 2003 and revised October 24, 2003. This report concludes that there are no threatened or endangered species on the property. Approximately 0.32 acres of Oak Woodland will be removed and the understory contains a mixture of native and non-native grasses and forbs.

As designed and conditioned, the proposed project would not pose any threat to any listed rare or sensitive plants communities. Therefore, the proposed project is consistent with development standards contained in Section 20.147.040 CIP.

(g) Forestry. The building site slopes up steeply from Palmero Way to a flatter slope near the upper portion of the lot. It is heavily forested with predominately Coast Live Oak woodland and a few Monterey pine trees. The project requires removal of 81 trees (23 Monterey Pine, 58 Oak) including 31 regulated trees (19 Monterey Pine, 12 Oak). The following assessments were prepared for the subject site in accordance with Section 20.147.050.B CIP:

- Forest Management Plan for Residential Property. Report dated January 28, 2002 with letters amending the Plan dated July 11, 2003 and August 21, 2003. This plan and revisions address replacement and maintenance of the forest.

As designed and conditioned, the proposed project would not affect the health of the surrounding forest or any indigenous Monterey cypress trees. Proposed tree removal does not result in exposure of structures in the critical viewshed. A qualified professional prepared a forest management plan for the proposed project. This plan determines that the project will not significantly impact the forest or its understory and includes actions to provide long-term protection of the remaining forest area (Policy 32 LUP). Due to the coverage of trees on the site, there is no way to develop the site without tree removal. The proposed house and driveway design impacts the least number of trees, including no landmark trees. Existing trees along the property lines retain a visual buffer for the neighboring residences (Policy 36 LUP). As conditioned, the proposed project is consistent with development standards contained in Section 20.147.050.D CIP. Also see Finding #6.

(h) Geologic Hazards. The site is located in a hazardous geologic zone according to Resource Maps, of the Monterey County Del Monte Forest Land Use Plan. The site slopes steeply upward from Palmero Way to a flatter slope (approximately 10%) at the upper portion of the lot. A 3-5 foot tall, near vertical, cut bank and

roadside drainage ditch exists at the base of the slope along Palmero Drive. Technical reports have been provided by consulting engineers in accordance with Section 20.147.060.A.9 CIP:

- Geotechnical Investigation for Palmero Drive, APN 008-351-021, Palmero Way, Pebble Beach, California. Dated June 2002.
- Erosion Control Report for Tescher Residence, APN 008-351-021, Palmero Way, Pebble Beach. Dated November 4, 2002.

Recommended conditions and modifications provide additional assurances regarding project safety. As conditioned, the proposed project is consistent with policies of the Del Monte Forest Local Coastal Program dealing with development in hazardous areas (Section 20.147.060.G CIP). Also see Findings #5 and #7.

(i) Scenic and Visual. Figure 2C of the Del Monte Forest Land Use Plan (LUP) identifies the subject site as an area that is visible from Point Lobos, across Carmel Bay. In addition, 17-Mile Drive is designated as a public viewing area within the forest. Staking and flagging combined with site visits of the project determined that the project is not visible from any part of public viewing area, 17-Mile Drive, or Point Lobos (Policy 33 LUP, Section 20.147.070.A CIP). The proposed house is sited as far up the hill as possible to retain the forest character as viewed from Palmero Way and areas downhill from the subject site. Existing homes along Riata Road buffer the proposed house from view along the roadway above (Section 20.147.050.D.1 CIP). The proposed house and driveway have been designed so that the least number of trees are impacted. Design modifications include avoiding impact to any landmark trees. Existing trees along the property lines retain a visual buffer for the neighboring residences (Policy 36 LUP). The project design is Mediterranean style (stucco with red tile roof) that is consistent with existing homes in the surrounding area under the same land use restrictions (Policy 31 LUP). The remaining forest and required new landscaping will supplement the project design. As conditioned, the proposed project is consistent with visual resource policies of the Del Monte Forest Local Coastal Program. Also see Finding 8d.

(j) Archaeology. County resource maps identify this area to be highly sensitive to archaeology finds. The following archaeological assessment was prepared for the subject site by Archaeological Consulting, Inc. in accordance with Section 20.147.080.B CIP:

- Preliminary Archaeological Reconnaissance of Assessor Parcel 008-351-021, Pebble Beach, Monterey County, California. Dated April 26, 2002. The results of research and site investigations are negative.

A standard condition requires that the contractor monitor the site during excavation activities to ensure that no potential archaeological resources are impacted.

(k) Land Use Advisory Committee: The Del Monte Forest Land Use Advisory Committee voted 5-0 -1 to recommend approval of the project as presented. LUAC meeting minutes dated March 11, 2003.

(l) Site Visits. Project planner conducted on-site inspections on March 10, 2003 and October 21, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(m) Application. The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN020042.

2. **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, and all zoning violation abatement cost, if any, have been paid.

**EVIDENCE:**

(a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on the subject property.

3. **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) Agency Review. The project was reviewed by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and the Pebble Beach Community Services District. The respective departments and agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The applicant has agreed to these conditions as evidenced by the application and accompanying materials.
- (b) Professional Reports. Recommended conditions and modifications from consulting forester, biologist, archaeologists, and engineers provide additional assurances regarding project safety. These technical reports are in Project File PLN020042.

4. **FINDING - SITE SUITABILITY:** The site is suitable for the use proposed.

**EVIDENCE:**

- (a) Agency Review. The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Pebble Beach Community Services District. Recommended conditions have been incorporated.
- (b) Professional Reports. Technical reports by outside archaeology, biology, forestry, geology and geotechnical consultants indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the use proposed. Findings and recommendations from the reports prepared by these professionals have been incorporated into the analysis and conditions for restoration and impact mitigation. All technical reports are in Project File PLN020042.
- (c) Site Inspection. The project planner conducted on-site inspections on March 10, 2003 and October 21, 2003. The proposed improvements will not present an unsightly appearance, impair the desirability of residences in the same area, limit the opportunity to obtain the optimum use and value of land improvements, or impair the desirability of living conditions of the same or adjacent area. Tree removal will not expose any structures within the critical viewshed.
- (d) Public Facilities. Necessary public facilities are available and will be provided:
  - Pebble Beach Community Services District provided a letter dated March 20, 2003 that the site is eligible for connection to the sewer system.
  - The applicant must provide an approved Water Release Form prior to issuance of a building permit.
  - The applicant must provide written certification that California American Water Company can and will supply sufficient water flow and pressure to comply with both health and fire flow standards.
  - A drainage plan is required to address on-site and off-site stormwater runoff.

5. **FINDING – 30% SLOPE:** Development on slopes that excess 30% is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 30%, or the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives.

**EVIDENCE:**

- (a) The only access to the site is from Palmero Way, which is a slope with grades in excess of 30%. As such, there is no alternative location for access into the subject site.
- (b) All structures (e.g.; house and caretaker unit) are located on the upper portion where the slope is gentler (approximately 10%).
- (c) Development will require implementation of Best Management Practices (BMPs) for erosion control in accordance with Monterey County Grading Ordinance #2535 and Erosion Control Ordinance #2806. An Erosion Control Report has been submitted as part of the emergency permit application, which meets the BMP requirements.

(d) Also see Finding #1h.

6. **FINDING - TREE REMOVAL:** The subject project minimizes tree removal in accordance with the applicable goals and policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan (Part 5).

**EVIDENCE:**

(a) Section 20.147.050.D.4 of the Monterey County Coastal Implementation Plan, Part 5, states that “new residential development, including driveways and parking areas, shall be sited and designed to minimize cutting of trees, especially trees screening the development from neighboring properties.” A 12-foot wide driveway is the minimum width necessary to meet Fire requirements and reduces the number of trees affected. No trees screening the property are proposed for removal.

(b) The applicant, their consultants, and staff evaluated various driveway designs in order to avoid the removal of native trees as much as possible. This action resulted in reducing the total number from 108 (66 unregulated, 42 regulated/1 landmark tree) to 81 (50 unregulated, 31 regulated/0 landmark trees).

(b) A Forest Management Plan and subsequent revisions assess potential impacts to native trees close to the proposed development. New retaining walls for the structures maintain a sufficient distance from the nearby trees to avoid any impacts. Although the new driveway passes close to a number of landmark trees, the design and engineering of the driveway and the use of pervious material minimizes the impact to roots.

(c) Conditions for tree protection during construction have been incorporated as conditions and include tree protection zones, trunk protection, hand excavation and bridging roots.

(d) A condition has been added that the applicant record a notice stating that a Forest Management Plan has been prepared and any tree removal be in accordance with the approved plan.

(e) Also see Finding #1g.

7. **FINDING - PESCADERO WATERSHED POLICY:** The project is consistent with Section 20.147.030.A.1 limiting structural coverage to 5,000 square feet (including main and accessory structures) and limiting additional impervious surface coverage up to 4,000 square feet. The proposed project meets the total limitation of 9,000 square feet for the Pescadero, Seal Rock Creek and Sawmill Gulch Watersheds and the smaller unnamed watersheds, which drain into the Carmel Bay Area of Special Biological Significance.

**EVIDENCE:**

(a) The project application, including the site plan, contained in file PLN020042 calculates structural coverage of approximately 4,888.5 square feet and impervious surface coverage of 4,000 square feet for a total of 9,888.5 square feet.

(b) See Finding #1e.

8. **FINDING - CEQA:** On the basis of the whole record before the Monterey County Board of Supervisors there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:**

(a) Initial Study. On October 29, 2003, Monterey County Planning and Building Inspection Department completed an Initial Study pursuant to CEQA. This Initial Study identified potentially significant impacts to aesthetics and biological resources. Technical reports determined that there are clearly no significant impacts that would occur as a result of the proposed project. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference (PLN020042).

(b) Negative Declaration. A Negative Declaration was filed with the County Clerk on October 31, 2003, noticed for public review, and circulated to the State Clearinghouse from October 31, 2003 to November 30, 2003. The evidence in the record includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed

during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

- (1) The application.
- (2) Preliminary Archaeological Reconnaissance of Assessor Parcel 008-351-021, Pebble Beach, Monterey County, California. Prepared by Mary Doane (B.A.) and Gary S. Breschini (Ph.D., RPA) of Archaeological Consulting. Dated April 26, 2002.
- (3) Geotechnical Investigation for Palmero Drive, APN 008-351-021, Palmero Way, Pebble Beach, California. Prepared by Rebecca L. Dees (C.E. 57210) of Haro, Kasunich, and Associates, Inc (Project #: M7923). Dated June 2002.
- (4) Erosion Control Report for Tescher Residence, APN 008-351-021, Palmero Way, Pebble Beach. Prepared by Sherman Low (RCE 29411), of Neill Engineers Corp. Dated November 4, 2002.
- (5) Forest Management Plan for Residential Property. Prepared by Glenn C. Flamik of Forest City Consulting. Report dated January 28, 2002 with amendments dated July 11, 2003 and August 21, 2003.
- (6) Tescher Property Biological Assessment, APN: 008-351-021. Prepared by Dale Hameister of Rana Creek Habitat Restoration. Dated August 25, 2003 and revised October 24, 2003.
- (7) Staff reports that reflect the County's independent judgment.
- (8) Information and testimony presented during public hearings.

These reports are on file in the offices of PBI (File Reference PLN020042) and are incorporated by reference herein.

(c) Biology. Since the area is known to support sensitive species such as Yadon's piperia, field studies were conducted by a qualified biologist in April and May 2003. The biological report (and revision) for the project determines that there are no rare, threatened, or endangered species of plants or animals on the site. A Forest Management Plan (and revisions) submitted as part of the project application addresses potential impacts to the forested areas. Removal of the proposed trees would not impact any significant vegetation contained in the under-story and will not impact the overall health of the surrounding forest. Impacts to the forest have been mitigated through revisions to the project driveway design and by avoiding impact to any landmark trees. Based on technical forestry and biological reports evaluating the current project design, impacts created by the project are considered less than significant and no mitigation is required.

(d) Aesthetic. Removing 81 trees will open up the site. The Del Monte Forest Land Use Plan (Figure 2C) identifies the subject site as an area that is visible from Point Lobos, across Carmel Bay. In addition, 17-Mile Drive is designated as public viewing area within the forest. Staking and flagging of the project has determined that the project is not visible from any part of public viewing area, 17-Mile Drive, or Point Lobos. The location and design of the driveway has reduced the potential visual impact to a less than significant level. The driveway is designed to meander up the slope so that the most of paving is not directly visible from Palmero Way. In addition, the design has retained a number of trees that, in conjunction with required landscaping, will serve to shield the project relative to visibility and lighting from the neighboring residents.

(e) Comments. Comments received during the review period or at the hearing before the Planning Commission have been considered as part of the proposed project. The Planning Commission considered public testimony and the initial study at a hearing on December 10, 2003.

(f) Determination. After sufficiently considering all comments and testimony along with the technical reports and supporting project information, the Planning Commission adopted a negative declaration (Section 15074 CEQA).

9. **FINDING - FISH & GAME FEE:** For purposes of the Fish and Game Code, the project will not have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends.

**EVIDENCE:**

- (a) **De Minimus Finding.** Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The site supports suitable habitat for the Federally-listed endangered plant species. Runoff from the site will drain into the Pacific Ocean. Therefore, this project is not subject to a de minimus exemption and the applicant is required to pay the Fish and Game fee.
- (b) Initial Study and Mitigated Negative Declaration contained in File No. PLN020042/Tescher & Levett Inc.

10. **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 (Section 20.70.050.B.4 CIP). 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, can be demonstrated.

**EVIDENCE:**

- (a) The Local Coastal Program does not describe the subject property as an area where access is required.
- (b) Staff performed site visits on March 11, 2003 and October 21, 2003.

11. **FINDING – APPEALABILITY:** The project is appealable to the Board of Supervisors and California Coastal Commission.

**EVIDENCE:**

- (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan (Part 1).
- (b) Section 20.86.080 of the Monterey County Coastal Implementation Plan (Part 1).
  - The project is located between the sea and the first through public road paralleling the sea (Highway One).
  - The project involves development that is permitted in the underlying zone as a conditional use (Caretaker Unit, 30% Slope).

**DECISION**

It is the decision of the Planning Commission of the County of Monterey that the Negative Declaration be adopted and said application for a Combined Development Permit be granted subject to the attached conditions:

**PASSED AND ADOPTED** this 10th day of December, 2003 by the following vote:

AYES: Errea, Parsons, Hawkins, Padilla, Brennan, Sanchez, Diehl, Salazar, Rochester, Wilmot  
 NOES: None  
 ABSENT: None

Original Signed By:

\_\_\_\_\_  
 JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO

APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.



NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.