

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 020045

A. P. # 187-091-008-000

In the matter of the application of
John Dennis Wachs (PLN020045)

FINDINGS & DECISION

to allow a Combined Development Permit in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of an Administrative Permit for the construction of a 588 sq. ft. detached guesthouse and the removal of one 16" 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, northerly of the intersection of Miramonte Road and Encina Drive, Carmel Valley Master Plan area, came on regularly for meeting before the Zoning Administrator on September 11, 2003.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

1. **FINDING: CONSISTENCY AND SITE SUITABILITY** – The Wachs Combined Development Permit and Design Approval (PLN020045), as described in Condition #1, and as conditioned, are consistent with the plans, policies, requirements and standards of the Monterey County General Plan, the Greater Monterey Peninsula Area Plan, the Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21). The property is located at 25 Encina Drive, Carmel Valley. The parcel is zoned "LDR/2.5-D-S" (Low Density Residential, 2.5 acres per unit, Design Control and Site Plan Review). The site is physically suitable for the use proposed.
EVIDENCE: (a) The application and plans submitted for the Combined Development Permit and Design Approval in project file PLN020045 at the Monterey County Planning and Building Inspection Department.
(b) The applicant provided the Monterey County Planning and Building Inspection Department with a Design Approval Request, drawings, and a statement of materials and colors to be used.
(c) The Geotechnical Report prepared by Tharp & Associates, Inc., dated May 14, 2003, concludes that the site is suitable for the project.
(d) A staff archeologist field check, dated July 25, 2002, verified that there is no surface evidence of potentially significant archeological resources on the site.
(e) The project planner conducted a site visit on July 1, 2003 to verify that the proposed project complies with the Greater Monterey Peninsula Area Plan and the Carmel Valley Master Plan. The project will not have a significant adverse effect on the public viewshed and will be minimally visible from Los Laureles Grade.

(f) The Carmel Valley Land Use Advisory Committee reviewed and recommended approval (3 - 0 vote) of the Combined Development Permit and Design Approval on July 7, 2003.

(g) The project and site have been reviewed by the Monterey County Planning and Building Inspection Department, Carmel Valley Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

2. **FINDING: TREE REMOVAL** – The tree removal is the minimum required under the circumstances of the case; and the removal will not involve a risk of adverse environmental impacts such as: 1. Soil erosion; 2. Water Quality: the removal of the trees will not substantially lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters; 3. Ecological Impacts: the removal will not have a substantial adverse impact upon existing biological and ecological systems, climatic conditions which affect these systems, and such removal will not create conditions which may adversely affect the dynamic equilibrium of associated systems; 4. Noise Pollution: the removal will not significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur; 5. Air Movement: the removal will not significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur; 6. Wildlife Habitat: the removal will not significantly reduce available habitat for wildlife existence and reproduction or result in the immigration of wildlife from adjacent or associated ecosystems.

EVIDENCE: (a) Based on staff's analysis and site visit and materials in the file, the tree removal, in this case, is the minimum required and will not have an adverse environmental impact. Moving the structure any where 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.

(b) The applicant is required to replace the tree removed at a ratio of 1:1.

3. **FINDING: CEQA** – The proposed project will not have a significant environmental impact.

EVIDENCE: (a) Section 15303(a) of the CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

4. **FINDING: NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Sections 21.14.020, 21.44.020, 21.45.020 and 21.64.020 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

5. FINDING: VARIANCE (SPECIAL CIRCUMSTANCES AND NO GRANT OF SPECIAL PRIVILEGES) – There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. As a result, the strict application of Title 21 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Combined Development Permit and Design Approval described in Condition #1 do 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. 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) Special Circumstances: The size of the subject property, a 1 acre parcel, is much smaller than other parcels in the vicinity, which generally are 2.5 acres or larger. Additionally, the property is severely constrained by: 1) slopes exceeding 30%; 2) the existence of numerous protected Valley Oaks; and 3) visibility from Los Laureles Grade, a designated County scenic route. There is only one suitable location for the guesthouse that is not on slopes exceeding 30%, requires the removal of only one 16 inch Valley Oak and is minimally visible from Los Laureles Grade. This location meets all setback requirements except for the front setback. The strict application of the 50 foot front setback requirement for this accessory structure deprives the subject property of the accessory structure privilege enjoyed by other properties in the vicinity and under identical zone classification. These properties are not as constrained due to a larger developable area. As a result, development of accessory units can meet all applicable policies and regulations, including the 50 foot front setback requirement.

(b) Special Privilege: Approval of the Combined Development Permit and Design Approval, as described in Condition #1 and Finding #1, will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification. Other properties in the area have received a Variance for a reduction in the front setback for a detached accessory structure. Examples are: ZA05566, ZA92014, PLN000064 and PLN020494.

(c) Staff's site visit and analysis of other properties in the vicinity and under identical zone classification.

(d) The application and plans submitted for the Combined Development Permit and Design Approval, including the Variance Justification Letter, in project file PLN020045 at the Monterey County Planning and Building Inspection Department.

6. FINDING: VARIANCE (NO GRANT OF UNAUTHORIZED USE) – The Variance does not grant a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

EVIDENCE: (a) The use is allowed per Section 21.14.030.B, Uses Allowed in the Low Density Residential zoning district.

7. FINDING: HEALTH AND SAFETY – The establishment, maintenance, and operation of the proposed development applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working

in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) Preceding findings and supporting evidence.

8. FINDING: APPEALABILITY – The decision on this project is appealable to the Planning Commission.

EVIDENCE: (a) Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21).

DESISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The Wachs Combined Development Permit and Design Approval (PLN020045) consist of: 1) an Administrative Permit for the construction of a 588 sq. ft. detached guesthouse and the removal of one 16 inch Valley Oak; and 2) a Variance to reduce the required front setback from 50 feet to 22 feet 6 inches. The property is located at 25 Encina Drive, Carmel Valley (Assessor's Parcel Number 187-091-008-000), north of the intersection of Miramonte Road and Encina Drive, Carmel Valley Master Plan area. 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 Planning and Building Inspection. 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. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution No. 020045) was approved by the Zoning Administrator for Assessor's Parcel Number 187-091-008-000 on September 11, 2003. The permit was granted subject to 21 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. Prior to the issuance of permits for guesthouse construction, the applicant shall record a deed restriction stating the regulations applicable to the guesthouse as contained in Section 21.64.020.C (Title 21), including that the guesthouse shall not be separately rented, let or leased from the main residence and shall not have cooking or kitchen facilities. Proof of recordation of this deed restriction shall be furnished to the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
4. All exterior lighting shall be down-lit and shaded, unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures

and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**

5. Native trees located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated in the form of photos prior to the issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
6. Prior to the issuance of any building permits, 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. **(Water Resources Agency)**
7. Prior to the issuance of a building permit, the applicant shall provide to the Director of Environmental Health written certification, and any necessary certification form State agencies that California-American Water Company can and will supply sufficient water flow and pressure to comply with both health and fire flow standards for the proposed project. **(Environmental Health)**
8. The building shall be fully protected with automatic fire sprinkler system. The following notation is required on the plans when a building permit is applied for:

"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection." **(Carmel Valley Fire Protection District)**

Prior to Final Building Inspection/Occupancy:

9. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. *The landscaping plan shall incorporate tree replacement on a one-to-one ratio. The plan shall delineate the tree replacement between the guesthouse and Encina Drive in order to provide additional screening.* The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**
10. The project shall follow the recommendations of the Geotechnical Report prepared for the site by Tharp &

Associates, Inc., dated May 14, 2003. A letter from a qualified soil or civil engineer shall be submitted to the Director of Planning and Building Inspection stating that the construction conforms to recommendations in the report. **(Planning and Building Inspection)**

11. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Carmel Valley Fire Protection District)**
12. Access road shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access. **(Carmel Valley Fire Protection District)**
13. Gate entrances shall be at least the width of the traffic lane, but in no case less than 12 feet wide. **(Carmel Valley Fire Protection District)**
14. Where gates are to be locked, the installation of a key switch, key box or padlock conforming to the Fire District's Knox System shall be provided. **(Carmel Valley Fire Protection District)**
15. Before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to final clearance. All address numbers shall be posted on the property so as to be clearly visible from the road. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. **(Carmel Valley Fire Protection District)**
16. Roofing shall be a minimum Class A roof assembly as defined by the most recently adopted edition of the Uniform Building Code. **(Carmel Valley Fire Protection District)**
17. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet from ground. Remove limbs within 10 feet of chimneys. **(Carmel Valley Fire Protection District)**
18. 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. **(Water Resources Agency)**

Continuous Permit Conditions:

19. If cultural, archeological, 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 it can be evaluated by a qualified professional archeologist. The Monterey County Planning and Building Inspection Department and a qualified archeologist (i.e., an archeologist registered with the Society of Professional Archeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
20. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**
21. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 11th day of September, 2003.

Original Signed By:

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 90th 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. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.