

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 020046

A.P. # 418-081-007-000

In the matter of the application of
Charles & Suzette McClaskey (PLN020046)

FINDINGS & DECISION

for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinance) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow unpermitted development performed on slopes of 30% or greater (540 cu. yds. of grading) to install a water tank and retaining wall and Design Approval for unpermitted additions to an existing single family dwelling, located at 88 Palo Colorado Road, Carmel, Big Sur Coast Land Use Area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on September 25, 2003.

Said Director of Planning and Building Inspection, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING:** **CONSISTENCY** – Coastal Development Permit (PLN020046/McClaskey) to allow unpermitted development performed on slopes of 30% or greater (540 cu. yds. of grading) to install a water tank and two retaining walls; and a Design Approval for unpermitted additions to an existing single-family dwelling. The proposed development, together with the provisions of its design, are consistent with both the *Big Sur Coast Land Use Plan* and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.145 (*Regulations for Development in the Big Sur Coast Land Use Plan*). The parcel is designated as “RDR/40-D (CZ)” (*Rural Density Residential*, 40 acres per unit, Design Control District, Coastal Zone), which allows single-family dwellings. The site is physically suited for the use proposed. 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 (see 20.70.050.B.4). 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 application and plans submitted for the Combined Development Permit in the project file at the Monterey County Planning and Building Inspection Department.

- EVIDENCE: (b)** LAND USE ADVISORY COMMITTEE – Design Approval Request form with plans recommended for approval by the Big Sur Coast Land Use Advisory Committee with a 10 to 0 unanimous vote in favor of the project proposal; found in File No. PLN020046/McClaskey.
- EVIDENCE: (c)** There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, the applicable Fire Department, Public Works Department and Environmental Health Division. There has been no indication from those 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.
- EVIDENCE: (d)** The subject property is not adjacent to the sea shore and is not described as an area where the Local Coastal Program requires access, according to Sections 20.70.050.B.4.c.i and ii.
2. **FINDING: VIOLATION PENDING** – The subject property is currently in violation of Section 20.147.050.A of the *Regulations for Development in the Big Sur Coast Land Use Plan Area* because development was carried out without the benefit of permits. Approval of the current application (file no. PLN020046) clears the code violations. Application fees have been doubled.
- EVIDENCE: (a)** On November 19, 2000, Grading Inspector Rick Starner issued a stop-work order on the subject parcel due to grading performed and a retaining wall installed without permits.
- EVIDENCE: (b)** November 21, 2001, Code Enforcement opened case number CE010420 due to unpermitted second-story additions to an existing single-family dwelling.
3. **FINDING: HEALTH AND WELFARE** – The establishment, maintenance, or operation of the use or building 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)** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Health Department, Public Works Department, and the Water Resources Agency. The respective departments 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; or the county in general.
4. **FINDING: SITE SUITABILITY** – The site is suitable for the use proposed.
- EVIDENCE: (a)** The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency,

Environmental Health Division, Parks Department, and the California Department of Forestry and Fire Prevention. Conditions recommended have been incorporated.

(b) According to the biological assessment produced for the project by Nicole Nedeff, dated June 29, 2003, no environmentally sensitive species or habitat were adversely impacted by the development; in file no. PLN020046.

(c) The project's seismic hazard zone is listed as a "Relatively Stable Area" according to the resource maps of the *Big Sur Coast Land Use Plan*. A geologic report, dated June 30, 2003, was prepared for this project by Karl Vonder Linden, a registered geologist, found no adverse impacts resulting from the development; in file no. PLN020046.

(d) The project as proposed is consistent with policies of the *Big Sur Coast Land Use Plan* dealing with development in areas of moderate archaeological sensitivity. No known positive archaeological sites are located within 750 feet of the project site.

(e) Necessary public facilities are available and will be provided.

5. **FINDING: SLOPE WAIVER** – The request for the proposed development to be located on slopes of 30% or more is consistent with Section 20.145.140.A.4.a of the *Regulations for Development in the Big Sur Coast Land Use Plan Area*, which allows development on slopes of 30% or greater where no alternatives exist that would allow the development to occur on slopes of less than 30%. No other alternative exists that would allow the new water tank and two retaining walls to be constructed on slopes of less than 30%.

EVIDENCE: (a) The landslide immediately upslope from the upper residence evidences the highly erosive nature of the soils found at the project site, especially where artificial cuts have been made. The new retaining wall was constructed along an old logging road between the two residences. The retaining wall was built along the cut-side of the old roadbed, and so was not built on slopes of 30% or greater. However, the fill behind the wall is on slopes well in excess of 30%. This road serves as an alternate access to the water tank that serves the upper residence. The retaining wall helps to preserve the integrity and usability of the old logging road as an alternate access to the upper water tank. The retaining wall also serves to preserve the integrity of the slope above the road cut, above which the upper residence is located. No other alternative exists that would allow this development to occur on slopes of less than 30%.

EVIDENCE: (b) The topography of the subject parcel is very irregular with steep slopes. No alternate locations with slopes less than 30% are available for the new water tank. The existing tank was also located on slopes of 30% or greater. The new tank site was chosen because the larger footprint of the new tank can not be accommodated within the footprint of the old tank.

6. **FINDING: CEQA** – The approved project will not have a significant adverse impact on the environment.

EVIDENCE: (a) Criteria contained in Article 19, Sections 15300.2 (Exceptions), 15303 (Small Structures), and 15304 (Minor Alterations to Land) of the California Environmental Quality Act Guidelines allow this project to be categorically exempted from environmental review.

EVIDENCE: (b) Biological assessment prepared by Nicole Nedeff, a qualified biologist, dated June 29, 2003; in file no. PLN020046.

EVIDENCE: (c) Geologic report, dated June 30, 2003, prepared for this project by Karl Vonder Linden, a registered geologist; in file no. PLN020046.

EVIDENCE: (d) Geotechnical report, dated October 9, 2000, prepared by John Kasunich, a registered professional engineer.

7. **FINDING: APPEALABILITY** – The project, as approved by the Coastal Development Permit, is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Sections 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for a Coastal Development Permit be granted as shown on the attached sketch, subject to the following conditions:

1. Coastal Development Permit (PLN020046/McClaskey) to allow unpermitted development performed on slopes of 30% or greater (540 cu. yds. of grading) to install a water tank and two retaining walls; and a Design Approval for unpermitted additions to an existing single-family dwelling. The project is 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 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)**
2. This permit shall expire two years from the date of adoption unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan. **(Planning and Building Inspection)**
3. 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)**
4. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection)**

5. The location, type, and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

6. The applicant shall record a notice which states: “A *permit (Resolution #020046) was approved by the Zoning Administrator for Assessor's Parcel Number 418-081-007-000 on September 25, 2003. The permit was granted subject to 20 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)**
7. The applicant shall record a notice which states: “*The parcel is located in high fire hazard area and development may be subject to certain restriction required as per Section 20.142.130 of the Coastal Implementation Plan and per the standards for development of residential property.*” Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection)**
8. All exterior lighting shall be unobtrusive, compatible 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 Department)**
9. The site shall be landscaped. Consistent with the recommendations contained in the biological assessment prepared for the project, the following requirements shall be incorporated into the landscaping plan:
 - All invasive exotic plant species shall be eradicated from the property.
 - In addition, the household trash, rusted pipe and wooden planks shall be removed and from the area below the retaining wall.
 - Areas of bermed soil located several feet away from the toe of the wall along the old road bed shall be leveled. The excess soil shall be moved toward the toe of the wall and seeded with native grasses appropriate for this site.
 - If further backfilling of the retaining wall is to occur as part of an approved grading plan, care shall be exercised to avoid spilling loose soil over the top of the wall. Only clean fill material shall be used. Household trash and larger brush shall be removed from above the wall; the larger brush shall be chipped before additional soil is placed behind the wall.

- Loose soil shall be removed from the base of trees where grading activity has increased the soil depth around the root crown of coast live oaks.
- All loose soil areas shall be revegetated with a native grass mix appropriate for this Palo Colorado Canyon location. If supplemental irrigation is available, native grasses shall be seeded in all areas of loose soil and covered with sterile rice straw mulch as soon as is feasible to initiate germination before the onset of winter rains. If irrigation is not available, seeding of native grasses should be completed in late Fall and sterile rice straw mulch installed immediately afterwards.

Prior to issuance of grading and building permits, three copies of a landscaping plan that incorporates the above-listed requirements shall be submitted to the Director of Planning and Building Inspection for approval. The project will be subject to a landscape plan review fee which shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, 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 final inspection*, 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 Department)**

10. Consistent with the recommendations contained in the biological assessment and geotechnical report prepared for the project, the following requirements shall be incorporated into the grading permit:
 - In order to control drainage and reduce further erosion hazards on exposed sections of roadway, water bars shall be incorporated into the design of the newly graded roadway access to the upper water tank.
 - In order to minimize disturbance of Northern Coastal Scrub habitat, the roadbed shall be returned to its pre-construction slope, to the extent feasible, at the water tank site.
 - The slide debris remaining in back of the upper home shall be cleaned out to open up the 18 foot separation width from the face of the slide scarp to the existing structure. **(Planning and Building Inspection Department)**
 - The remaining vertical cut above the retaining wall behind the replacement water tank shall be cut back at a 1:1 to intersect the existing top of slope and then treated for erosion control with pinned jut netting and planting of appropriate native vegetation. Some of the soils removed can be used along the top of slope to build it up slightly creating a small berm approximately 6-8" high x 18" wide to ensure water does not go over and down the slope towards the tank pad. **(Planning and Building Inspection Department)**
11. Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. **(Water Resources Agency)**
12. Roof construction on the lower residence shall be ICBO Class A. If existing roof covering is not ICBO Class "A", reroofing is required. **(California Department of Forestry)**

13. All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. **(California Department of Forestry)**
14. Size of letters, numbers, and symbols for addresses shall be a minimum of 3-inch letter height, 3/8-inch stroke, contrasting with the background color of the sign. **(California Department of Forestry)**
15. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. **(California Department of Forestry)**
16. Address signs along one-way roads shall be visible from both directions of travel. **(California Department of Forestry)**
17. Where multiple address are required at a single driveway, they shall be mounted on a single post, or in any fashion approved by the Reviewing Authority that provides for the same practical effect. **(California Department of Forestry)**

Prior to Final Building Inspection/Occupancy:

18. The applicant shall comply with Ordinance No. 3932 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 & Planning and Building Inspection)**

Continuous Permit Conditions:

19. 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 it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection 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. **(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)**

PASSED AND ADOPTED this 25th day of September, 2003.

Original Signed By:

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF 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 Planning Commission 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 Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use

is started within this period.