

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 020108

A. P. # 141-121-001-000

In the matter of the application of

Kathleen Fitzgerald (PLN020108)

FINDINGS & DECISION

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit to allow conversion of 528 sq. ft. (second story) of an existing 1,056 sq. ft. two-story accessory dome structure into a habitable guesthouse. The remaining 528 sq. ft. lower level would remain as non-habitable storage space with an attached 242 sq. ft. green house and a 336 sq. ft. detached carport; Grading for less than 100 cubic yards of cut and fill; and a septic system; 2) a Variance to allow the proposed guesthouse to exceed the 12' foot height limit by 11' feet and to exceed the 425' sq. ft. maximum allowable size for a guest house by 103' sq. ft.; and Design Approval. The property is located at 296 Carneros Road, Aromas, west of Carpentaria Road, North County, Coastal Zone, came on regularly for meeting before the Zoning Administrator on November 13, 2003.

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

1. **FINDING: CONSISTENCY, SITE SUITABILITY & PUBLIC ACCESS** – The Fitzgerald Combined Development Permit (PLN020108) as described in Condition No. 1 and as conditioned, is consistent with the Monterey County Local Coastal Program, specifically the North County Land Use Plan, Part 2 of the Coastal Implementation Plan (CIP), “Regulations for Development in the North County Area,” and Part 1 of the CIP, Coastal Zoning Ordinance (Title 20). The parcel is zoned “RDR/10 CZ” or Rural Density Residential, 10 acres per unit, Coastal Zone.

- The property is located at 296 Carneros Road, Aromas area (Assessor's Parcel Number 141-121-001-000) west of Carpenteria Road, North County, Coastal Zone. The site is physically suitable for the use proposed.
- The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4).

- EVIDENCE:** (a) The application and plans submitted for the Combined Development Permit in project file PLN020108 at the Monterey County Planning and Building Inspection Department.
- (b) The project planner conducted a site visit to verify that the proposed project complies with applicable regulations. No adverse environmental effects were identified during staff review of the development application at the time of the site visit. The existing dome structure is not visible off site.
- (c) The North County Coastal Land Use Advisory Committee (LUAC) reviewed the project on June 2, 2003, and recommended approval (vote 6 to 0) with one recommendation essentially stating that the project should be consistent with fire code regulations to ensure fire

safety. Conditions recommended by the Aromas Tri-County Fire District are included as conditions of approval.

(d) A “Biotic Report” was prepared for the project and potential future phases for development of the site by Greening Associates in August 2003. The report concludes that implementation of certain recommendations are appropriate when and if the existing mobile home on the site is replaced with a new single family residence. Construction activity proposed with this project is minimal and includes a new detached carport and a septic system. Therefore the recommendations in the report do not apply to this project.

(e) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Aromas Tri-County Fire 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.

(f) No access is required as part of the project as no substantial adverse impacts on access, either individually or cumulatively can be demonstrated, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan.

2. FINDING: CEQA (Exempt) - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15301(a) categorically exempts interior and exterior alterations to existing private structures where there is only conversion of a use.

(b) CEQA Guidelines Section 15303 (e) categorically exempts construction of a small carport.

(c) No adverse environmental effects were identified during staff review of the development application and at the time of the site visit.

(d) See evidence for finding number 1 above.

3. 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 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 on subject property.

4. FINDING: VARIANCE (Special Circumstances) - Because of special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, the strict application of the Monterey County Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE: (a) The structure currently exists on the parcel and does not require exterior modification. The upper level, which would be converted to a guesthouse, is 528 square feet in size. Special

circumstances exist given the fact that the dome structure exists and it is not reasonable to require the applicant to demolish 103 square feet to comply with the 425 square foot limit for a guesthouse. In addition, due to the circular size and shape of the dome it is not reasonable to require the applicant to retain 103 square feet as non-habitable space since the shape and internal circulation would not be achievable. Also, given the topography and existing vegetation on the lot construction of a new guesthouse that complies with the size requirements may adversely affect existing slopes and vegetation on the property which are potentially environmentally sensitive.

(b) Materials and documents in Project File No. PLN020108, including the applicant's letter of justification, located in the Monterey County Planning and Building Inspection Department.

(c) The residence is 600 square feet.

5. **FINDING: VARIANCE (Special Privilege)** – Approval of the Variance would not constitute a grant of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.

EVIDENCE: (a) The structure currently exists on the parcel and does not require exterior modification. Therefore it would not be a special privilege since other properties in the area are not subject to the same circumstances. In addition, use of the dome was previously approved as a Senior Citizen Unit. The proposed conversion to a guesthouse would be a less intense use than a Senior Unit, which in effect is a permanently habitable second unit that would have a permanent impact on water use and traffic. A less intense use is consistent with limitations on other properties in North County, which are currently subject to land use constraints due to limited water quantity and poor water quality.

(b) Materials and documents in Project File No. PLN030096.

6. **FINDING: VARIANCE (Authorized Use)** – The Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: (a) The guesthouse is an allowed use subject to permit approval pursuant to the property's "Rural Density Residential" zoning designation.

7. **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.

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

EVIDENCE: (a) Section 20.86 of the Monterey County Zoning Ordinance (Title 20).

DECISION

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 Fitzgerald Combined Development Permit consists of: 1) a Coastal Administrative Permit to allow the conversion of the second story (528 sq. ft.) of an existing 1,056 sq. ft. accessory dome structure into a habitable guesthouse with a 336 sq. ft. detached carport and a septic system. The 528 sq. ft. lower level would remain as non-habitable storage space with an existing 242 sq. ft. attached greenhouse; 2) a Variance to exceed the 425 sq. ft. maximum allowable size for a guesthouse by 103 square feet. The property is located at 296 Carneros Road, Aromas area (Assessor's Parcel Number 141-121-001-000) west of Carpenteria Road, North County, Coastal Zone. Neither the use 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 Building or Grading Permits:

2. The applicant shall record a notice which states: "A permit (Resolution No. 020108) was approved by the Zoning Administrator for Assessor's Parcel Number 141-121-001-000 on November 13, 2003. The permit was granted subject to 10 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. All exterior lighting shall be 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. If applicable, 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)**
4. Prior to the issuance of permits for guesthouse construction, or for use of an existing structure as a guesthouse, the applicant shall record a deed restriction stating the regulations applicable to the guesthouse, including that the

guesthouse shall not be separately rented, let or leased from the main residence and shall not have cooking or kitchen facilities. **(Planning and Building Inspection)**

5. The applicant shall provide to the Water Resources Agency information on the well to serve the project, including the location of all water wells on the property, any well logs/e-logs, and the number of current hookups. **(Water Resources Agency)**
6. The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Public Resource Codes 4290 and 4291, and other related codes as they apply to a project of this type and size. **(Aromas Tri-County Fire District)**
7. The applicant shall ensure there is adequate ingress and egress to any and all buildings. Roadways/Driveways shall be an all-weather surface conforming to applicable codes and standards. Driveways(s) shall include turnouts and turnarounds as required. Driveway addresses shall be installed so they are visible to responding emergency personnel. **(Aromas Tri-County Fire District)**

Prior to Final Inspection or Occupancy:

8. All areas disturbed by construction activity, which include the area around the proposed septic system and carport, shall be restored and revegetated using native drought-tolerant plant material or grasses similar in appearance to the surrounding area to control erosion, subject to the approval of the Director of the Planning and Building Inspection Department. **(Planning and Building Inspection)**

Continuous Permit Conditions:

9. If 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)**
10. 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 13th day of November, 2003.

Original Signed By:

MIKE NOVO
ZONING ADMINISTRATOR

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 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.