

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 020578

A. P. # 241-201-020-000

In the matter of the application of  
**James Koppert (PLN020578)**

**FINDINGS AND 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 construction of a new 2,330 sq. ft. single family dwelling with an attached garage; a Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (Wildcat Creek); and a Coastal Development Permit for the removal of six Monterey pines, two Oaks and two Monterey Cypress trees; and Design Approval, located at 29703 Peter Pan Road, Carmel, N/N, approximately 500 feet east of the intersection with Highway 1, Carmel Highlands area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on July 31, 2003.

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

**1. FINDING: CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

**EVIDENCE:** (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), and Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and has determined that the project is consistent with the Carmel Area Land Use Plan which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN020578.

(b) An archeological survey identified that the parcel contains a portion of an archeological site. The building footprint was investigated further and the consulting archaeologist concluded that the site is of limited significance and is not unique. A mitigation measure requires that an archaeological monitor be present during excavation activities to ensure that no potential archaeological resources are impacted.

(c) A biological report prepared for the project by Vern Yadon, dated October 7, 2002 determined that no sensitive plant species exist on the site. The proposed project footprint will be within 50-feet from the bank of Wildcat Creek. However, because the canyon is approximately 80-feet deep, the streambed of Wildcat Creek is in excess of 150 linear feet from the construction site. As conditioned, runoff will be designed to avoid off-site impacts. Therefore, the project will not impact the long term maintenance of the riparian corridor.

(d) A two-to-one (2:1) replacement of removed trees will be required, totaling 16 replacement trees. It was determined in the Forest Management Plan prepared by Staub Forestry and Environmental Consulting, dated January 2003, that sufficient room exists on the site to plant the necessary replacement trees in accordance with the required ratio.

(e) The project planner conducted an on-site inspection on May 14, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(f) A single family home is an allowed use in accordance with Sections 20.14.040.

(g) The parcel is zoned Low Density Residential, 1 unit/acre, Design Control District, Coastal Zone ("LDR/1-D (CZ))." The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.14.060.

(h) The Carmel Area Land Use Advisory Committee (LUAC) recommended approval of the project by a vote of 6-0. LUAC meeting minutes dated February 3, 2003.

(i) 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 PLN020578.

**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 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) The project was reviewed by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, and Carmel Highlands Fire Protection 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 and conditions.

(b) Technical reports have been provided by consulting geotechnical engineers and geologists with recommended conditions and modifications that provide additional assurances regarding project safety. "Geotechnical Soils-Foundation & Geoseismic Report with Geohazard Evaluation" prepared by Grice Engineering, Inc dated September 2002; "Percolation and Groundwater Study with Septic System Design Recommendations" prepared by Grice Engineering, Inc. dated September, 2002. Reports are in Project File PLN020578.

- 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 Carmel Highlands Fire Protection District. Conditions recommended have been incorporated.
- (b) Technical reports by outside biology, archaeology, geology and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas or similar areas that would indicate the site is not suitable for the use proposed. "A Biological Report for the Koppert Property" prepared by Vern Yadon dated October 7, 2002. "Archaeological Evaluation of a Portion of CA-MNT-437, on Assessor's Parcel 241-201-020-000" prepared by Archaeological Consulting dated November 19, 2002; "Geotechnical Soils-Foundation & Geoseismic Report with Geohazard Evaluation" prepared by Grice Engineering, Inc dated September 2002; "Percolation and Groundwater Study with Septic System Design Recommendations" prepared by Grice Engineering, Inc. dated September, 2002. Reports are in Project File PLN020578.
- (c) Staff conducted an on-site visit on May 14, 2003 to verify that the site is suitable for this use.
- (d) Necessary public facilities are available and will be provided.
- 5. FINDING: CEQA:** - On the basis of the whole record before the Zoning Administrator 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) The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. This Initial Study identified potentially significant impacts to aesthetics and biological resources. The applicant has agreed to proposed mitigation measures that reduce the effects to a point where clearly no significant impact would occur. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference. (PLN020578). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.
- (b) A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. Applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- (c) Evidence that has been received and considered includes:
- i) The application

ii) "Biological Report for the Koppert Property" prepared by Vern Yadon dated October 7, 2002. "Archaeological Evaluation of a Portion of CA-MNT-437, on Assessor's Parcel 241-201-020-000" prepared by Archaeological Consulting dated November 19, 2002; "Forest Management Plan" prepared by Staub Forestry and Environmental Consulting, dated January 2003; "Geotechnical Soils-Foundation & Geoseismic Report with Geohazard Evaluation" prepared by Grice Engineering, Inc dated September 2002; "Percolation and Groundwater Study with Septic System Design Recommendations" prepared by Grice Engineering, Inc. dated September, 2002.

iii) Staff reports that reflect the County's independent judgment

iv) Information and testimony presented during public hearings

These reports are on file in the offices of PBI (File Reference PLN020578) and are incorporated by reference herein.

d) Adverse impacts to the riparian corridor could occur from the spread of non-native invasive plants. These impacts have been reduced to a less than significant level through a weed eradication and abatement plan.

e) Given the nature of archeological resources in a highly sensitive area, where they may be discovered during construction activities, potential adverse impacts could occur during construction. In order to reduce these potential impacts to a less than significant level, a mitigation measure has been imposed on the project to ensure that an archaeological monitor be present during construction activities.

f) The mitigated negative declaration was circulated for public review from May 22, 2003 to June 20, 2003. The County has considered the comments received during the public review period, and they do not alter the conclusions in the Initial Study and negative declaration.

**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 (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 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 3, the Public Access Map, of the Carmel Area 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) Staff site visit on May 14, 2003.

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

**EVIDENCE:** (a) Sections 20.86.030 and 20.86.080.A.3 of the Monterey County Zoning Ordinance (Title 20).

## **DECISION**

THEREFORE, it is the decision of the Zoning Administrator of the County of Monterey that said Mitigated Negative Declaration be adopted and that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit consists of Coastal Administrative Permit to allow construction of a new 2,330 sq. ft. single family dwelling with an attached garage; a Coastal Development Permit for development within 100 feet of an environmentally sensitive habitat area (Wildcat Creek); and a Coastal Development Permit for the removal of six Monterey pines, two oaks and two Monterey cypress trees including one landmark Monterey cypress; and Design Approval. The property is located at Peter Pan Road n/n, approximately 500 feet east of the intersection with Highway 1 (Assessor's Parcel Number 241-201-020-000), Carmel Highlands area, Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. 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 Grading and Building Permits:**

2. The applicant shall record a notice which states: "A permit (Resolution #020578) was approved by the Zoning Administrator for Assessor's Parcel Number 241-201-020-000 on July 31, 2003. The permit was granted subject to 25 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. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and/or Reporting Plan

incorporated herein in its entirety by reference. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(Planning and Building Inspection)**

4. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of **\$1,275. This fee shall be paid within five days of project approval**, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection)**
5. 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. 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)**
6. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
7. 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)**
8. The applicant shall incorporate all recommendations from the "Geotechnical Soils-Foundation & Geoseismic Report with Geohazard Evaluation" prepared by Grice Engineering, Inc, dated September 2002, into the final building plans. **(Planning and Building Inspection)**
9. Except for tree no. 24, a landmark Monterey Cypress which shall be retained, all tree removal and replacement planting on the parcel must be in accordance with the Forest Management Plan prepared by Staub Forestry and Environmental Consulting, dated January 2003. Prior to issuance of building permits, the applicant shall submit to the Director of Planning and Building Inspection Department for approval, an updated Forest Management Plan to reflect actual tree removal and replacement ratio allowed by this permit. **(Planning and Building Inspection)**
10. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Staub Forestry and Environmental Consulting, dated \_\_\_\_\_, and is on record in the Monterey County Planning and Building Inspection Department Library. All tree removal and replacement planting on the parcel must be in accordance with the Forest Management Plan, as approved by the Director of Planning and Building Inspection." This notice shall be recorded upon the Director's approval of

the updated Forest Management Plan required by Condition No. 9, and prior to issuance of building or grading permits. **(Planning and Building Inspection)**

11. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by:
  - a. Wrapping trunks with protective materials;
  - b. Fencing around the area within drip lines;
  - c. Avoiding fill of any type against the base of the trunks; and
  - d. Avoiding an increase in soil depth at the feeding zone or drip line of the retained trees.Said protection shall be demonstrated through either photographic evidence or by a site visit with Planning and Building Inspection Department staff prior to issuance of building permits. **(Planning and Building Inspection)**
12. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site and off-site impacts, and necessary improvements shall be constructed in accordance with approved plans. The Planning Director shall review and approve the plan prior to approval by the Water Resources Agency. **(Water Resources Agency)**
13. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. **(Water Resources Agency)**
14. Prior to issuance of a building permit, provide to the Director of Environmental Health written certification, and any necessary certification from 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. **(Environmental Health Division)**
15. Prior to issuance of building permits, provide engineered plans to the Division of Environmental Health for the reinforcement of the leach line located in the driveway. **(Environmental Health Division)**
16. Before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent & temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. 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 Highlands Fire Protection District)**
17. The building(s) shall be fully protected with automatic fire sprinkler system(s). 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 Highlands Fire Protection District)**

**Prior to Final Building Inspection/Occupancy:**

18. Prior to painting the residence, the applicant shall schedule a site inspection with Planning and Building Inspection Department staff to verify the house colors. Building colors must comply with section 20.146.030.C.1.c of the Carmel Area Coastal Implementation which requires colors to be earth tones and blend with the natural surroundings. The applicant shall have one wall which is exposed to the viewshed painted in the proposed color at least two weeks prior to scheduling the site inspection with county staff. Paint color shall be modified to comply with this condition as deemed necessary by the Director of Planning and Building Inspection Department. Painting of the remainder of the structure shall not commence until the colors have been fully approved by the Director of Planning and Building Inspection Department. **(Planning and Building Inspection)**
19. 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 & Planning and Building Inspection)**
20. Remove flammable vegetation from within 30 feet of structure (or to property line). Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Carmel Highlands Fire Protection District)**
21. 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 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)**



22. The landscape plan shall reflect the tree replacement and transplanting indicated in the approved Forest Management Plan. **(Planning and Building Inspection)**

**Continuous Permit Conditions:**

23. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**
24. 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)**
25. A scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent. A scenic easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection Department)**

**PASSED AND ADOPTED** this 31st day of July, 2003.

Original Signed By:

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