

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 020582

A. P. # 008-462-008-000

In the matter of the application of
Jack V. and Eileen Feather (PLN020582)

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 and Design Approval to allow construction of a new 741 sq. ft. three-car garage and retaining walls; and a Coastal Development Permit to allow development within environmentally sensitive Monterey Cypress habitat, located at 3256 Seventeen Mile Drive, Pebble Beach, westerly of the intersection of Seventeen Mile Drive and Cabrillo Road, Del Monte Forest area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on August 14, 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, the Del Monte Forest Land Use Plan, Coastal Implementation Plan (Part 5), 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 Del Monte Forest Land Use Plan, Coastal Implementation Plan (Part 5), 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 have determined that the project is consistent with the Del Monte Forest Land Use Plan which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN020582.

(b) Project planner conducted an on-site inspection on February 20, 2003 and March 28, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(c) The project for an accessory garage to a single family home is an allowed use, in accordance with Section 20.14.040.

(d) The parcel is zoned Low Density Residential, 2 units/acre, Design Control District, Coastal Zone ("LDR/2-D (CZ))." The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 21.14.060.

(e) Land Use Advisory Committee (LUAC): The Del Monte Forest Land Use Advisory Committee recommended approval of the project by a vote of 7 for and 0 against. The LUAC were concerned over "the large Variance required with little hardship." LUAC meeting minutes dated March 27, 2003. The original project description incorrectly included a Variance to the 100-foot setback from 17-Mile Drive, but the description has since been revised and the setback addressed as a policy consistency issue.

(f) See Finding #7 which addresses consistency with biological policies and development within 100 feet of environmentally sensitive habitat.

(g) See Finding #8 which addresses consistency with the 17-Mile Drive 100-foot setback and visual policies.

(h) 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 PLN020582.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and 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 and conditions.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Pebble Beach Community Services District. Conditions recommended have been incorporated.

(b) Technical reports by outside archaeology and biology consultants indicate that there are no physical or environmental constraints such as environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concurs. "Preliminary Cultural Resources Reconnaissance" prepared by Archaeological Consulting, Salinas, CA, February 1, 1988. "Biological Resources Assessment" prepared by Cara Galloway, M.A., of EMC Planning Group, Monterey, CA, January 31, 2003. Reports are in Project File PLN020582.

- (c) A Mitigated Negative Declaration was prepared which analyzed the potential impacts of the project and concluded that the project was designed and mitigated to a less than significant level.
- (d) Staff conducted an on-site visit on February 20, 2003 and March 28, 2003 to verify that the site is suitable for this use.
- (e) Necessary public facilities are available and will be provided.

5. 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 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.
 - (c) The project as designed and mitigated does not impede visual access of the ocean. In addition, an ongoing condition (Condition #13) has been incorporated requiring existing views and visual access of the ocean from 17-Mile Drive along the property to be maintained and kept open and the landscaping vegetation trimmed.
 - (d) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - (e) Staff site visit on February 20 and March 28, 2003.

6. FINDING: CEQA (Mitigated Negative Declaration) 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. The Initial Study identified several potentially significant effects, but revisions have been made to the project and applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of PB&I and is hereby incorporated by reference (PLN020582). 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 Condition Compliance and Mitigation Monitoring and/or Reporting Plan have been prepared in accordance with Monterey County regulations and are 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 (Condition #4)

(c) Evidence that has been received and considered includes:

- The application and materials
- “Biological Resources Assessment” prepared by Cara Galloway, M.A., of EMC Planning Group, Monterey, CA, January 31, 2003.
- “Preliminary Cultural Resources Reconnaissance” prepared by Archaeological Consulting, Salinas, CA, February 1, 1998.
- Staff reports that reflect the County’s independent judgment

(d) These reports are on file in the offices of PBI (File Reference No. PLN020582) and are incorporated by reference herein.

(e) Potential visual impacts have been minimized by requiring design changes to ensure that views of the ocean from 17 Mile Drive are not blocked. Siting of the proposed garage minimizes visibility and the design is consistent with existing structures.

(f) Potential biological impacts to Monterey cypress trees have been minimized through measures such as biological monitoring, hand excavation, protective fencing, weed control and limited summer watering as recommended in the biological report. The proposed garage is sited in a disturbed area and excavation is minimized to avoid potential impact to roots.

(g) The mitigated negative declaration was circulated for public review from June 19, 2003 to July 18, 2003. No comments from the public were received.

7. FINDING: ENVIRONMENTALLY SENSITIVE HABITAT – The subject project is consistent with Policy 21 of the Del Monte Forest Land Use Plan which regulates development on parcels supporting indigenous Monterey Cypress habitat to protect the resource.

EVIDENCE (a) The subject property contains native Monterey cypress habitat. The proposed development is within the dripline of two cypress trees (12” and 30” diameters). Regulations from the Coastal Implementation Plan require such development to be “compatible with the objective of protecting this environmentally sensitive coastal resource” and prohibit development within the driplines of the Monterey cypress trees (20.147.040.C.1(d) and (e)).

(b) Although development is proposed under the dripline of several cypress trees, the biological report employed an Optimal Tree Root Preservation Zone method to determine that the trees in question would not be adversely impacted. The report recommended mitigation measures and stated that the development would “not result in direct impacts to individual Monterey cypress or Monterey pine trees” and would have “no adverse effect on sensitive habitat.” It also concluded in the context of the existing development and trees that “the location of the proposed improvements is the most logical for a biological resources standpoint.” The proposed development is sited, designed and conditioned to minimize potential impacts. Development already exists under the driplines in the proposed area and the trees have adapted to it. The proposed structure is located on the site of an existing greenhouse with a foundation. Grading for the development is minimized to about 15 cubic yards and the excavation depth is limited to approximately 1 foot to avoid root impacts. “Biological Resource Assessment” prepared by Cara Galloway, M.A., of EMC Consulting dated January 31, 2003.

- (c) An Initial Study, which identified measures to minimize potential impacts to the cypress trees and habitat, was completed and the measures incorporated into a Mitigation Monitoring and/or Reporting Program.
- (d) Resource Maps in Del Monte Forest Land Use Plan.
- (e) Staff site visits on February 20 and March 28, 2003.

8. FINDING: 17-MILE DRIVE 100' SETBACK (Policy 84) – The subject project is consistent with Policy 84 of the Del Monte Forest Land Use Plan which requires a minimum setback of 100 feet from the centerline of 17-Mile Drive.

EVIDENCE: (a) Policy 84 of the Del Monte Forest Land Use Plan states that “a minimum setback of 100 feet from the centerline of the road shall be maintained to screen new development from motorists, unless otherwise protected by terrain.” Section 20.147.070.C.8 of the Coastal Implementation Plan allows for an exception when the development “may be screened from view of travelers on 17-Mile Drive by existing vegetation or terrain.” The intent of the policy is to preserve the scenic quality and character of 17-Mile Drive by limiting and screening development adjacent to it. The proposed garage is 71 feet from the centerline of the road, but is adequately screened by terrain, existing vegetation and an existing approved wall to meet the policy and its intent. The proposed location is approximately seven feet below the elevation of the road which lowers its height in relation to the road and lessens the structure’s visibility. The solid property wall, approved by the County, is considered part of the existing terrain that screens the proposed garage. Existing vegetation further screens the site.

(b) Visibility of the structure is minimal and is limited to a small portion of the roof and part of the front elevation facing the driveway and visible through the entranceway. The proposed garage is attached directly in front of the existing caretaker’s unit and does not block any ocean views. An ongoing condition (Condition #16) has been incorporated requiring existing views and visual access of the ocean from 17-Mile Drive along the property to be maintained and kept open and the landscaping vegetation trimmed. Additional landscaping will provide additional screening if necessary to further screen the garage (Condition #13).

(c) The Land Use Plan acknowledges that policies regulating development must be balanced against resource conservation needs. The project is located in environmentally sensitive Monterey cypress habitat which limits the feasible sites. It is located as far back from the road as possible on an existing disturbed area and is attached to an existing structure. It meets all other setback requirements and replaces an existing greenhouse, foundation and wood fence. The proposed location was determined to be the most appropriate from a biological standpoint.

(d) A condition requiring a scenic easement for the 100 foot setback from the centerline of 17-Mile Drive has been incorporated per Section 20.147.070.C.9 of the Coastal Implementation Plan, Part 5 (Condition #5).

(e) Staff site visits on February 20 and March 28, 2003.

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

EVIDENCE: (a) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1) and Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

DECISION

THEREFORE, it is the decision of the Zoning Administrator of the County of Monterey to adopt the Mitigated Negative Declaration, adopt the Mitigation Monitoring Reporting Program and grant said application for a Combined Development Permit as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit consists of a Coastal Administrative Permit and Design Approval to allow construction of a new 741 square foot, 3-car garage attached to an existing caretaker's unit and retaining walls; and a Coastal Development Permit to allow development within environmentally sensitive Monterey Cypress habitat. The project is located at 3256 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-462-008-000), westerly of the intersection of 17-Mile Drive and Cabrillo Road, in the Del Monte Forest Area of the 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 020582) was approved by the Zoning Administrator for Assessor's Parcel Number 008-462-008-000 on August 14, 2003. The permit was granted subject to 17 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. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee of \$1,275, to be collected by the County, within five (5) calendar days of project approval – prior to filing of the Notice of Determination. This fee shall be paid on or 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 recordation of the tentative map, 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 Department)**

4. Prior to issuance of permits, 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 are contained in the staff report as Exhibit "G" and are hereby 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)**
5. A scenic easement shall be conveyed to the County over those portions of the property within 100 feet of the centerline of 17-Mile Drive, not to include existing or approved development. 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)**
6. 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 three (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)**
7. 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)**
8. 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 in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
9. 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. **(Fire District)**
10. 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. **(Fire District)**
11. 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." **(Fire District)**

Prior to Final Building Inspection/Occupancy:

12. 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)**
13. The landscape plan shall include additional and appropriate vegetation as needed to screen the proposed garage from 17-Mile Drive as determined by the Director of Planning and Building Inspection and consistent with other landscaping conditions and the Biological Report prepared by Cara Galloway, dated January 31, 2003. **(Planning and Building Inspection)**

Continuous Permit Conditions:

14. If during the course of construction activity on the subject property, cultural, archaeological, historical, 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)**
15. 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)**
16. Existing views along the subject property from 17-Mile Drive towards the ocean shall be maintained and kept open. No vegetation or structures that may block views shall be allowed without the approval of the Director of Planning and Building Inspection. Vegetation planted along the front property wall shall be trimmed and maintained so as not to exceed the wall height or restrict views from 17-Mile Drive. Vegetation in the existing

visual corridor between the east side property line and the gymnasium shall be kept trimmed so as not to obstruct visual access to the ocean. **(Planning and Building Inspection)**

- 17. 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)**

PASSED AND ADOPTED this 14th day of August, 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.