

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 020587

A. P. # 008-171-043-000

In the matter of the application of
Mike & Jacquelyne Love (PLN020587)

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 Design Approval for remodel and additions to an existing two-story single-family dwelling (3,975 sq. ft. added to 5,158 sq. ft. existing); a Coastal Development Permit for native tree removal (2 Monterey pines); a Coastal Development Permit for development on slopes 30% or greater; Variance for exceeding height limitation; and Variance for exceeding impervious surface limitations in the Pescadero Watershed, located at 3108 Flavin Lane, Pebble Beach, Del Monte Forest 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: The subject Combined Development Permit (PLN020587/Love), as described in Condition 1 and as conditioned, conforms to the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Del Monte Forest Land Use Plan, the Del Monte Forest Coastal Implementation Plan (Part 5), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The property is located at 3108 Flavin Lane (Assessor's Parcel Number 008-341-027-000), Pebble Beach, in the Del Monte Forest area of the Coastal Zone. The parcel is zoned "LDR/1-D (CZ) and RC-D (CZ)," i.e., Low Density Residential, 1 unit per 1 acre, and Resource Conservation, Design Control District, 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 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: The application and plans submitted for the Combined Development Permit in the project file at the Monterey County Planning and Building Inspection Department.

EVIDENCE: The Del Monte Forest Land Use Advisory Committee voted 5 to 0 to recommend denial of the project, stating: "*Objection to the increase to an already non-conforming height causing excessive bulk. Further objections concerned the mass and coverage*"; Design Approval application found in File No. PLN020587.

EVIDENCE: The on-site inspection of the parcel by the project planner, April 9, 2003.

EVIDENCE: 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: 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:** The site is suitable for the use proposed.

EVIDENCE: 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 Pebble Beach Community Services District. Conditions recommended have been incorporated.

EVIDENCE: The project is in a seismic hazard zone "III" (moderate) as found in the resource maps of the Del Monte Forest Land Use Plan.

EVIDENCE: The project as proposed is consistent with policies of the *Del Monte Forest Land Use Plan* dealing with development in archaeologically sensitive areas, evidenced by the archaeological waiver granted by Lynne Mounday, staff archaeologist for the Planning and Building Inspection Department, dated March 14, 2003, contained in the project file. No known positive archaeological sites are located within 750 feet of the project site. Condition 22 has been added to require that work be stopped in the event that any archaeological resources are found on site.

EVIDENCE: Staff conducted a site visit on April 9, 2003 to verify that the site is suitable for this use.

EVIDENCE: Necessary public facilities are available and will be provided.

3. **FINDING:** The request for the proposed development to be partially located on slopes exceeding 30% is inconsistent with Section 20.147.060.G.1.a of the *Regulations for Development in the Del Monte Land Use Plan Area*, which prohibits development on slope of 30% or greater where alternatives exist that would allow the development to occur on slopes of less than 30%.

EVIDENCE: The proposed driveway includes a circular "doughnut" shaped feature to provide a turnaround radius for emergency vehicles. This feature would require development on slopes of 30% or greater. Adequate turnaround radius can be provided without the proposed circular feature. Condition 7 requires the submittal of a revised site plan that provides the necessary turnaround radius for emergency vehicles but that eliminates development on slopes of 30% or greater.

4. **FINDING:** Policies 34 & 36 of the Del Monte Forest Land Use Plan require that development be sited and designed to minimize, to the extent feasible, the removal of vegetative cover or damage to soil resources, and to minimize the cutting of trees.

EVIDENCE: By avoiding development on slopes of 30% or greater (Finding & Evidence 3), the need to remove the two native Monterey pines proposed for removal is also avoided. Condition 7 requires the submittal of a revised site plan that provides the necessary turnaround radius for emergency vehicles but that eliminates development on slopes of 30% or greater, which therefore eliminates the need for native tree removal.

5. **FINDING:** The proposed project is inconsistent with Section 20.147.030.A.1 of the *Regulations for Development in the Del Monte Forest Land Use Plan Area* limiting impervious coverage

(other than structural) to 4,000 square feet and is also inconsistent with the total limitation of 9,000 square feet of total impervious surfaces within the Pescadero, Seal Rock Creek and Sawmill Gulch Watersheds and the smaller unnamed watersheds that drain into the Carmel Bay Area of Special Biological Significance (although the proposed project is consistent with the limitation on structural surface coverage of up to 5,000 square feet).

EVIDENCE: The project application, including the site plan, contained in file PLN020587 proposes structural coverage of 4,469 square feet and impervious surface coverage of 5,353 square feet for a total of 9,822 square feet. Existing impervious coverage is also 9,822 square feet (i.e., 3,635 sq. ft. structural coverage and 6,187 sq. ft. other impervious coverage).

6. FINDING: 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 Section 20.147.030.A.1.b of the *Regulations for Development in the Del Monte Forest Land Use Plan Area* is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE: The intent of the Pescadero watershed coverage limitations is to limit the amount of storm water runoff into Carmel Bay, thereby protecting an area of biological significance. Although, the proposed project exceeds the 9,000 square foot limit for total impervious coverage, the proposed impervious surface coverage is consistent with the existing 9,822 sq. ft. of total impervious surfaces at the project site.

EVIDENCE: The subject site is capable of controlling the storm water runoff produced by the proposed development, thereby meeting the intent of Section 20.147.030.A.1.b. The owner has agreed to a condition that would require all storm water runoff from the development to be controlled on site, by means of retention/percolation facilities or infiltration trenches in accordance with plans designed by a registered civil engineer or architect (Condition 9).

EVIDENCE: Condition 6 requires the recordation of a deed restriction limiting the maximum amount of impervious surfaces to 9,822 sq. ft.

7. FINDING: The variance to exceed the allowable Pescadero watershed structural and impervious surface coverage shall 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: Other residential properties in the Del Monte Forest area of the Coastal Zone under the identical zoning classification have been granted Variances to exceed the Pescadero Watershed structural and impervious surface coverage limitations where existing approved conditions already exceed the allowable limits and can be lowered to or near the 9,000 sq. ft. limit.

EVIDENCE: The Board of Supervisors' resolution 94-149 (Steakley) established the precedent to allow a Variance to exceed the 5,000 square foot limit on structural coverage as long as storm water runoff was controlled on site. Retaining storm water on site maintaining the combined structural and impervious surface coverage at the current existing amount of 9,822 square feet supports the intent of Section 20.147.030.A.1.b of the certified Monterey County Coastal Implementation Plan, Part 5 regarding impervious coverage in the Pescadero watershed.

EVIDENCE: The existing conditions were approved on July 10, 1980 by Resolution ZA-4127, and are in substantial compliance with the intent of the Pescadero watershed limitations.

EVIDENCE: The subject site is capable of controlling the storm water runoff produced by the proposed development, thereby meeting the intent of Section 20.147.030.A.1.b. The owner has agreed to a condition that would require all storm water runoff from the development to be controlled on site, by means of retention/percolation facilities or infiltration trenches in accordance with plans designed by a registered civil engineer or architect (Condition 9).

EVIDENCE: Condition 6 requires the recordation of a deed restriction limiting the maximum amount of impervious surfaces to 9,822 sq. ft.

8. FINDING: Both the existing and proposed uses, which are residential in nature, are expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: The subject parcel is zoned for residential uses (LDR/1-D [CZ]; i.e., Low Density Residential, 1 unit per acre, Design Control District, Coastal Zone).

9. FINDING: There are no special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, such that the strict application of Section 20.14.060.C.1 (Site Development Standards, Maximum Height) of the Title 20 (Zoning Ordinance) is not found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE: The proposed new development can be built within the maximum allowable height limit of 30 feet above average natural grade. Therefore, Condition 8 requires that revised building plans shall be submitted indicating that the entire proposed new structure is designed at or below 30 feet above average natural grade, consistent with the maximum allowable height limitation for the LDR & RC zoning districts.

EVIDENCE: Project plans & materials found in planning file PLN020587.

10. FINDING: A variance to exceed the maximum allowable height limit would constitute a granting of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.

EVIDENCE: The proposed project involves the effective demolition of an existing 5,158 sq. ft. two-story single-family dwelling and the construction of a 9,133 sq. ft. three-story single-family dwelling (plus 850 cubic yards of excavation and a basement). New development replacing the existing house can be built within the maximum 30 foot allowable height limit, as have similar projects in the vicinity approved since the certification of the *Monterey County Local Coastal Program*. Therefore, Condition 8 requires that revised building plans shall be submitted indicating that the entire proposed new structure is designed at or below 30 feet above average natural grade, consistent with the maximum allowable height limitation for the LDR & RC zoning district.

EVIDENCE: Project plans & materials found in planning file PLN020587.

11. FINDING: Development of properties located in the Monterey Peninsula Water Management District ("District") depends in large part, on the availability of water pursuant to an allotment system established by the District based on a prorationing of the known water supply for each of the jurisdictions served by the California-American Water Service Company.

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

- 12. FINDING:** Based upon the District's water allotment system, the County of Monterey ("County") has established a system of priority distribution of water allocation for properties within its own jurisdiction. Current information available to the County indicates that the County's share of water under the District's allotment system, over which the County has no control, has been exhausted to the point that the County is unable to assure that property owners who do or have obtained development permits for their properties will be able to proceed with their development projects.
- EVIDENCE:** Staff report, oral testimony at the hearing; administrative record.
- 13. FINDING:** In view of the preceding finding, and the fact that the present application for a use permit otherwise meets all County requirements, the County approves the application subject to determination by the Monterey County Water Resources Agency, in the form of a water availability certification, that water is available for the project and the applicant's being able to obtain a water use permit from the District.
- EVIDENCE:** Staff report, oral testimony at the hearing; administrative record.
- 14. FINDING:** The establishment, maintenance, and operation of the proposed development applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
- EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, applicable Fire Department, Public Works and Parks Departments, Environmental Health Division, and Water Resources Agency. The respective departments and Agency 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.
- 15. FINDING:** The subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist and the property and that all zoning abatement costs, if any have been paid.
- EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.
- 16. FINDING:** The proposed project will not have a significant environmental impact.
- EVIDENCE:** Criteria contained in Article 19, Sections 15300.2 (Exceptions) & 15301 (Existing Facilities) of the California Environmental Quality Act Guidelines allow this project to be categorically exempted from environmental review. Due to the project's limited scale and because land disturbance will be minimal and entirely within an already disturbed area, no significantly adverse environmental impacts were identified during review of the proposed project.
- 17. FINDING:** The project is appealable to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** Sections 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

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 subject permit approval grants a Design Approval for a remodel and additions to an existing two-story single-family dwelling (3,975 sq. ft. added to 5,158 sq. ft., existing), including grading (850 cu. yds. of cut and 50 to 100 cu. yds. of fill) and a basement; and a Variance for exceeding impervious surface limitations within the Pescadero watershed from 9,000 sq. ft. to 9,822 sq. ft. 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)**

Prior to the Issuance of Grading and Building Permits:

4. The applicant shall record a notice which states: *“A permit (Resolution 020587) was approved by the Zoning Administrator for Assessor's Parcel Number 008-171-043-000 on July 31, 2003. The permit was granted subject to 23 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 and grading permits. **(Planning and Building Inspection)**
5. 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 and grading permits. **(Planning and Building Inspection Department)**
6. As a condition for granting a Variance to the 9,000 square foot structural coverage limit required in the Pescadero watershed, a deed restriction shall be recorded limiting the subject parcel to the maximum impervious square footage allowed by this permit approval (PLN020587), which is 9,822 square feet. Proof of recordation of this deed restriction shall be furnished to the Director of Planning and Building Inspection prior to issuance of building and grading permits. **(Planning and Building Inspection Department)**

7. A revised site plan shall be submitted that provides the necessary turnaround radius for emergency vehicles but that eliminates development on slopes of 30% or greater. The site plan shall also be revised so that the stucco wall along the west side of the driveway is designed at 6 ft. or less above average natural grade (not 6 ft. above fill). Said plan shall be subject to approval by the Director of Planning and Building Inspection, **as long as the revised project is recommended for approval by the Land Use Advisory Committee**. If the Land Use Advisory Committee does not recommend approval of the revised plans, the Design Approval shall be scheduled for public hearing. **(Planning and Building Inspection Department)**
8. Revised building plans shall be submitted indicating that the entire proposed new structure is designed at or below 30 feet above average natural grade. Said plans shall be subject to approval by the Director of Planning and Building Inspection, **as long as the revised project is recommended for approval by the Land Use Advisory Committee**. If the Land Use Advisory Committee does not recommend approval of the revised plans, the Design Approval shall be scheduled for public hearing. **(Planning and Building Inspection Department)**
9. Prior to issuance of grading or building permits, a drainage plan shall be prepared by a registered civil engineer or architect addressing on-site and off-site impacts, to include retention/percolation facilities to mitigate the impact of impervious surface storm water runoff. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resource Agency)**
10. Prior to 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 Resource Agency)**
11. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. **(Pebble Beach Community Services District)**
12. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Pebble Beach Community Services District)**
13. 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. 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.” **(Pebble Beach Community Services District)**
14. The building(s) shall be fully protected with an automatic alarm system(s). The following notation is **required on the plans** when a building permit is applied for:

“The building(s) shall be fully protected with an approved central station, proprietary station, or remote station automatic fire alarm system as defined by National Fire Protection Association

Standard 72 - 1996 Edition. Plans and specifications for the fire alarm system must be submitted and approved by the enforcing jurisdiction prior to requesting a framing inspection. All fire alarm system inspections and acceptance testing shall be in accordance with Chapter 7 of NFPA 72 – 1996.” (Pebble Beach Community Services District)

Prior to Final Building Inspection/Occupancy:

15. 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)**
16. 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. 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 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 Department)**
17. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces shall be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. **(Pebble Beach Community Services District)**
18. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Pebble Beach Community Services District)**
19. 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. **(Pebble Beach Community Services District)**
20. 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. **(Pebble Beach Community Services District)**

21. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Pebble Beach Community Services District)**

Continuous Permit Conditions:

22. 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)**
23. 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 31st day of July, 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.