

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030436

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

In the matter of the application of
Jack & Eileen Feather (PLN030436)

FINDINGS & DECISION

to allow an Amendment to a previously approved Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of an Amendment of Combined Development Permit PLN020582 and Design Approval to increase the height of an approved wall from a maximum of 2' to a stepped design varying in height from 5' to 6'-5". In addition, an existing 10-foot tall wall would be reduced to match the stepped design of the proposed wall. Both walls are located near environmentally sensitive cypress habitat and in a visually sensitive area between 17 Mile Drive and the ocean. The property is located at 3256 17 Mile Drive, Pebble Beach, westerly of the intersection of 17 Mile Drive and Cabrillo Road, Del Monte Forest area, 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 - 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 PLN030436.

(b) Project planner conducted an on-site inspection on September 12, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(c) This application includes a request to modify wall designs. Section 20.14.040.F of the Monterey County Code (MCC) allows accessory structures (e.g.; walls) in the Low Density Residential zone.

(d) The parcel is zoned Low Density Residential, 2 units/acre, Design Control District, Coastal Zone ("LDR/2-D (CZ))." This project complies with Section 20.14.060 MCC that establishes Site Development Standards for a Low Density Residential District.

(e) The proposed amendment is consistent with the Findings and Evidence of Combined Development Permit (PLN020582) which permitted the new wall. All the Conditions of Approval of the Combined Development Permit PLN020582 continue to apply and are hereby incorporated by reference.

(f) Land Use Advisory Committee (LUAC): The Del Monte Forest Land Use Advisory Committee recommended approval of the project by a vote of 6 for and 0 against the recommendation with no comments. LUAC meeting minutes dated October 9, 2003.

(g) Environmentally Sensitive Habitat. Finding #5 addresses consistency with biological policies and development within 100 feet of Monterey Cypress habitat.

(h) Visually Sensitive. Finding #6 addresses consistency with proposed development between 17-Mile Drive and the ocean.

(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 PLN030436.

2. 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.

3. 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 submitted for the approved Combined Development Permit PLN020582 by outside archaeology and biology consultants indicate that there are no physical or environmental constraints that would indicate the site is not suitable for the use proposed and agency staff concurs. The following reports and their recommendations are still applicable:

1) "Preliminary Cultural Resources Reconnaissance" prepared by Archaeological Consulting, Salinas, CA, February 1, 1988.

2) "Biological Resources Assessment" prepared by Cara Galloway, M.A., of EMC Planning Group, Monterey, CA, January 31, 2003.

The proposed amendment does not alter the project or change conditions in any way that would require reconsideration of the potential impacts. These reports are in Project File PLN020582.

(c) Staff conducted a site visit on September 12, 2003.

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

4. 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 does not impede visual access of the ocean. Although the proposed height of the approved wall is increasing from two feet to five feet in an area where the ocean is visible, the reduction in height of the opposite existing wall from as much as ten feet to five feet opens up a larger area to public view and improves overall visual access. See also Finding #6.
 - (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 September 12, 2003.

- 5. 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 amendment is consistent with biological findings for Combined Development Permit PLN020582 which permitted the new wall. The proposed changes do not alter any of the conditions or create any new impacts. The amount of excavation or design of the footings is not changed. Proposed height changes are for aesthetic purposes only in order to produce better matching walls.
 - (b) The recommendations of the biological report submitted for PLN020582 continue to apply. “Biological Resource Assessment” prepared by Cara Galloway, M.A., of EMC Consulting dated January 31, 2003.

- 6. FINDING: DEVELOPMENT BETWEEN 17-MILE DRIVE AND THE OCEAN (Policy 59)** – The subject project is consistent with Policy 59 of the Del Monte Forest Land Use Plan which requires development between 17-Mile Drive and the sea to minimize obstructions of ocean views.

- EVIDENCE:**
- (a) Combined Development Permit PLN020582 permitted construction of a new garage and retaining walls between 17-Mile Drive and the ocean. A previously approved wall (ZA96033) on the other side of the driveway stands as tall as ten feet. This action included a finding that the development minimized obstruction of ocean views because only the end portion had the potential to block any views. A condition limits the wall to two feet in height above the finished grade to prevent any new obstructions. Although the proposed project increases the height of the new wall from two feet to five feet and would block a small portion of the ocean view, the project also reduces the height of the existing wall from ten feet to five feet, thereby opening up a much larger portion of the ocean to public view. The proposed project is

consistent with the Policy 59 since it would not increase obstruction of ocean views and would increase public visual access.

(b) Staff site visit on September 12, 2003.

7. 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.

8. 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 amended mitigated negative declaration reflects the independent judgment and analysis of the County.

EVIDENCE (a) The Monterey County Zoning Administrator adopted a Mitigated Negative Declaration (MND) for a proposed garage and retaining walls (File No. PLN020582) on August 14, 2003. The Initial Study identified several potentially significant impacts that were mitigated to a point where clearly no significant effects would occur. Mitigation included limiting the height of a proposed wall to ensure public views of the ocean. The MND is on file in the offices of the Monterey County Planning and Building Inspection Department (File No. PLN020582).

(b) The subject amendment proposes to increase the height of the approved wall, but also proposes to reduce an existing wall to balance this impact. The proposed increase is more than offset by the reduction in height of the existing wall. The overall result of the proposed amendment is an expanded ocean view from 17-Mile Drive. An amended Initial Study was prepared incorporating the proposed changes and is available in the offices of the Monterey County Planning and Building Inspection Department (File No. PLN030436).

(c) Staff did not re-circulate the amended Initial Study for public review because the changes clarify and amplify the adopted MND. Section 15073.5(c) of the CEQA Guidelines states that recirculation of a negative declaration is not required when "mitigation measures are replaced with equal or more effective measures" and when new information is added "which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration." Although this section applies to recirculation of a negative declaration prior to adoption, it clarifies the intent of CEQA and serves as a guideline for processing this amendment with an already adopted mitigated negative declaration when equivalent measures and minor changes are involved.

(d) The project involves no new construction or excavation and results in a net visual benefit and improved visual quality. No unusual or new circumstances exist that would alter or increase potential impacts and warrant recirculation.

(e) An amended 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.

- 9. FINDING: APPEALABILITY** - The project is appealable to the Board of Supervisors and California Coastal Commission.
- EVIDENCE:** (a) Section 20.86.030.A and 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

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 Amendment to Combined Development Permit PLN020582 and Design Approval proposes to increase the height of an approved wall from a maximum of 2' to a stepped design varying in height from 5' to 6'-5". In addition, an existing 10-foot tall wall would be reduced to match the stepped design of the proposed wall. Both walls are located near environmentally sensitive cypress habitat and in a visually sensitive area between 17 Mile Drive and the ocean. 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 030436) was approved by the Zoning Administrator for Assessor's Parcel Number 008-462-008-000 on November 13, 2003. The permit was granted subject to 5 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 \$25, to be collected by the County, within five (5) calendar days of project approval – prior to filing of the Notice of Determination with a De Minimus Impact Finding. 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 issuance of building and/or grading permits. 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 amended 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 amended Mitigation Monitoring and/or Reporting Plan is contained in the staff report as Exhibit "F" and is 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. Only one agreement to address both PLN020582 and PLN030436 shall be required. **(Planning and Building Inspection)**
- 5. Conditions of Monterey County Planning and Building Inspection File Number PLN020582 as amended by file number PLN030436 remain in effect and are hereby incorporated by reference.

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.