

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 010384

A. P. # 416-241-001-000

In the matter of the application of  
**Mary E. Hernandez (PLN010384)**

**FINDINGS & DECISION**

to allow a Combined Development Permit in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of 1) a Variance for reduction of the front yard setback requirements to allow a two-story, 3,620 sq. ft. addition to an existing one-story, 1,456 sq. ft. single family dwelling; 2) Lot Line Adjustment to merge two existing lots of record to allow the proposed addition; and 3) Administrative Permit for removal of a 20" diameter oak tree; and Design Approval. The property is located at 21 Harper Canyon Road, Salinas - Lots 74 & 92, Assessor's Map Subdivision of Sections 1, 2, 10, 11 & 12 of Township 16 south, Range 2 west), Harper Canyon area, Toro area, came on regularly for meeting before the Zoning Administrator on November 18, 2004.

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

**1. FINDING:** The application under this permit consists of a Combined Development Permit (**Hernandez – PLN010384**) including a Variance for reduction of required front yard setback requirements, a minor Lot Line Adjustment and an Administrative Permit for removal of one 20-inch Oak tree. The uses and permits under the Combined Development Permit, as described in condition #1 of the attached Exhibit "E," and as conditioned, conform to the plans, policies, requirements, and standards of the General Plan, the Toro Area Plan, the Monterey County Zoning Ordinance (Title 21), and the Monterey County Subdivision Ordinance (Title 19. The project site (Assessor's Parcel Number 261-031-010-000) is located at 21 Harper Canyon Road, San Benancio Road, San Benancio area.

**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) Monterey County General Plan
- b) The Toro Area Plan
- c) Chapters 21.14 (Regulations for Low Density Residential Zoning Districts) and 21.64.260 (Preservation of Oak and Other Protected Trees) of the Monterey County Zoning Ordinance.
- d) Subdivision Ordinance (Title 19).

**EVIDENCE:** The proposed project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and the Salinas Rural Fire District. There has been no indication from these agencies that the site is not suitable for the proposed development. In addition, each agency has recommended conditions for subdivision improvements that would assure compliance with applicable regulations and requirements.

**EVIDENCE:** The Toro Land Use Advisory Committee recommended approval of the project on May 27, 2003.

**EVIDENCE:** Written and verbal public testimony submitted at public hearings before the decision-making body.

**EVIDENCE:** The on-site inspection of the subject parcel by the project planner.

**EVIDENCE:** The project application, project plans and support materials found in the project file.

**EVIDENCE:** Condition #1 does not allow the removal of the oak tree proposed for removal. See Finding #7.

2. **FINDING:** The development of the proposed addition to the existing single-family dwelling will not, under the circumstances of the particular case, be detrimental to health, safety, comfort, peace, morals, 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 Planning and Building Inspection Department, Health Department, Public Works Department, Water Resources Agency and the Salinas Rural Fire Protection District. The respective Departments 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.

3. **FINDING:** The site is suitable for the use proposed.

**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, Public Works Department, Health Department and the Salinas Rural Fire District. 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 or similar areas that would indicate the site is not suitable for the use proposed.

### **FINDINGS FOR APPROVAL OF THE VARIANCE**

4. **FINDING:** That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**EVIDENCE:** The subject property is a narrow sliver of land averaging 60-65 feet in width. The floodway and the floodplain of Harper Creek abut the property on the backside. The overall elongated and narrow form of the property and the location of the creek are special circumstances that significantly limit possibilities for development and make it impossible to develop the project within the setback requirements of the ordinance, and that would deprive the property owner of developing a residential unit more in tune with the character of the neighborhood and to enjoy privileges already enjoyed by other property owners in the vicinity.

5. **FINDING:** That approval of the variance will not constitute a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.
- EVIDENCE:** The granting of the variance would result in the location of the proposed addition holding a 17-foot front yard setback where 20 feet are required. Allowing development of the addition with this resulting front yard setback would not constitute a special privilege given the narrow character of the entire site, which constitutes a significant limitation for development of the addition.
- EVIDENCE:** The area of the existing single-family dwelling -1,456 square feet - is smaller than the majority of the residential units in the immediate vicinity, and the resulting area – 5,076 square feet – would be similar to or would not significantly exceed the area of the existing residential units in the vicinity.
6. **FINDING:** The variance is not granted for a use or activity, which is not otherwise expressly authorized by the zone regulations governing the property.
- EVIDENCE:** Development of the subject property is regulated by the provisions the Low Density Residential Zoning District (Chapter 21.14) of the Zoning Ordinance. These regulations include single-family dwellings as an allowed use and the project consists of the addition to an existing single-family dwelling.

#### **FINDINGS FOR DENIAL OF THE TREE REMOVAL**

7. **FINDING:** The proposed removal of one 20-inch diameter Oak tree is not the minimum required under the circumstances of the particular case and it is not necessary for development of the proposed addition.
- EVIDENCE:** The removal of the tree is proposed to make room to upgrade the existing septic system on the property and to make it complaint with environmental health regulations. Unless it can be demonstrated conclusively by the applicant that the septic system cannot be upgraded without removing the tree, there is no need to remove the tree.
- EVIDENCE:** Preliminary review of the septic system improvement plans indicates that the system can be designed to avoid removal of the Oak tree.
- EVIDENCE:** The foundation system of the proposed addition can be and should be designed to avoid affecting the root system of the oak tree and avoid its removal and allow development of the project as proposed.

#### **FINDINGS FOR APPROVAL OF THE LOT LINE ADJUSTMENT**

8. **FINDING:** The lot line adjustment is between two existing, adjacent lots of record of approximately 0.24 and 0.25 acres respectively (Lots 74 & 92, Assessor's Map of Subdivision of Sections 1, 2, 10, 11 & 12 of Township 16 South, Range 2 West).
- EVIDENCE:** Application, project plans and information found in the project file.
9. **FINDING:** A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.
- EVIDENCE:** Two adjacent separate legal lots of record of approximately 0.24 and 0.25 acres respectively will be adjusted and one separate legal lot of approximately 0.5 acres will result from the adjustment.

## 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 attached conditions.

**PASSED AND ADOPTED** this 18th day of November, 2004.

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MIKE NOVO  
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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.

<p><u>Monterey County Planning and Building Inspection</u>  <u>Mitigation Monitoring / Condition Compliance Reporting Plan</u></p>	<p><u>Project Name:</u> Hernandez Combined Development Permit</p> <p><u>File No:</u> PLN010384 <u>APN:</u> 416-241-001-000</p> <p><u>Approval by:</u> Zoning Administrator      <u>Date:</u> 11/18/2004</p>
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*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Condi on #	Mitig . #	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1		<p><b>PBD029 - SPECIFIC USES ONLY</b></p> <p>The Combined Development Permit, File No. PLN010384 includes a Variance for reduction of the required 20-foot front yard setback to approximately 17 feet and a Lot Line Adjustment to merge two existing lots of record (Lots 74 &amp; 92, Assessor's Map of Subdivision of Sections 1, 2, 10, 11 &amp; 12 of Township 16 South, Range 2 West). 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. <b>(Planning and Building Inspection)</b></p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	
2		<p><b>PBD025 - NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: "A Combined Development Permit including a variance for reduction of front yard setbacks and a lot line adjustment (Resolution 010384) was approved by the Zoning Administrator on <i>November 18, 2004</i> for the subject parcel. The Combined Development Permit was granted subject to 22 conditions of approval that 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</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	

<i>Permit Condition #</i>	<i>Mitigation #</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		permits or commencement of the use. ( <b>Planning and Building Inspection</b> )				
3		<b>STREAM SETBACK</b> The proposed development shall be setback at least <b>50</b> feet from the “top of bank”, as defined in Chapter 16.16 of the Monterey County Code, unless it can be proven to the satisfaction of the Water Resources Agency that the proposed development will be safe from flow-related erosion hazards and will not significantly reduce the capacity of the existing watercourse. The top of bank shall be defined by a professional engineer and shown on the site plan. ( <b>Water Resources Agency</b> )	Submit cross-sections and a site plan to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any grading or building permits	WRA
4		<b>ZONE A1-A30 ELEVATION REQUIREMENTS</b> The lowest floor and attendant utilities shall be constructed at least <b>435.8</b> feet above mean sea level (NGVD 1929). The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed land surveyor that a reference marker has been established at the building site to provide for the flood proofing and certification of the lowest floor elevation. ( <b>Water Resources Agency</b> )	Submit letter from registered civil engineer to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any grading or building permits	WRA
5		<b>CONCRETE SLAB INSPECTION</b> The applicant shall provide the Water Resources Agency a FEMA Elevation Certificate completed by a registered civil engineer or licensed land surveyor, certifying the forms have been set at a height that will ensure the minimum lowest floor elevation requirement. ( <b>Water Resources Agency</b> )	Submit a completed FEMA Elevation Certificate, based on building under construction, to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to the foundation pre-pour inspection	WRA
6		<b>STEMWALL INSPECTION</b> The applicant shall provide the Water Resources Agency a FEMA Elevation Certificate completed by a registered civil engineer or licensed surveyor certifying the lowest floor elevation, venting, external grades and internal grades are compliant with Chapter 16.16 of the Monterey County Code.	Submit a completed FEMA Elevation Certificate, based on building under construction, to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to the stem wall inspection	WRA

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		(Water Resources Agency)				
7		<b>WR0016 ELEVATION CERTIFICATE (WR)</b> – Prior to final inspection, the applicant shall provide the Water Resources Agency a FEMA Elevation Certificate, based on finished construction, completed by a registered civil engineer or licensed surveyor certifying the structure has been constructed in accordance with Chapter 16.16 of the Monterey County Code. (Water Resources)	Submit a completed FEMA Elevation Certificate, based on finished construction, and completed by the engineer or surveyor, to the Water Resources Agency for review and approval.	Owner/ Applicant/ Engineer/ Surveyor	Prior to Final Building Inspection/ Occupancy	
8		<b>WR22 - FLOODPLAIN RECORDATION</b> Prior to issuance of any grading or building permits, the owner shall provide Water Resources Agency a recorded Floodplain Notice stating: “The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions.” (Water Resources Agency)	Submit the recorded floodplain notice to the Water Resources Agency for review and approval. (A copy of the County’s standard notice can be obtained at the Water Resources Agency.)	Owner/ Applicant	Prior to issuance of Demolition, Grading and/or Building Permits	
9		<b>WR0040 – WATER CONSERVATION MEASURES</b> – 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:  1. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallon, 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.  2. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and how precipitation sprinkler head,	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/ occupancy	

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		bubblers, drip irrigation system, and timing devices. <b>(Water Resources Agency)</b>				
10		<b>EH – SEPTIC SYSTEM DEVELOPMENT</b> Any development on the property that produces wastewater shall be limited to a maximum of a four-bedroom single family residence, with only one kitchen to be allowed, and shall meet the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB, unless otherwise approved by the Director of the Division of Environmental Health, Monterey County Health Department, or until the property connects to an approved sanitary sewer. <b>(Environmental Health)</b>	Comply with Chapter 15.20 of the Monterey County Code as approved by the Director of Environmental Health.	Owner/ Applicant	Continuous	
11		<b>EH7 – ABANDONED WELLS</b> Destroy the existing abandoned well(s) according to the standards found in State of California Bulletin 74 and all its supplements, and Chapter 15.08 of the Monterey County Code. The well shall not be considered abandoned if satisfactory evidence is provided that the well is functional, is used on a regular basis, and does not act as a conduit for contamination of groundwater. <b>(Environmental Health)</b>	Prior to destruction, a permit for the destruction of the well(s) shall be obtained by a CA licensed well contractor from the Division of Environmental Health. After destruction submit the Well Completion Report to the Division of Environmental Health.	CA License Engineer/Owner/ Applicant	Prior to the filing a final map and/or issuance of a building permit	
12		<b>DRIVEWAYS (FIRE)</b> Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turn out near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. <b>(Salinas Rural Fire District)</b>	Construction documents must reflect driveways that comply with this regulation.	Applicant	Prior to issuance of building permit.	



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13		<b>VERTICAL CLEARANCE (FIRE)</b> Unobstructed vertical clearance shall be not less than 15 feet for all access roads. <b>(Salinas Rural Fire District)</b>	If applicable, applicant must demonstrate that conditions on the site comply with this regulation.	Applicant	Prior to issuance of certificate of occupancy.	
14		<b>VEGETATION/TREE LIMB (FIRE)</b> Remove flammable vegetation from within 30 feet of structure. Limb trees 6 feet up from the ground. Remove limbs within 10 feet of chimneys. <b>(Salinas Rural Fire District)</b>	Remove all flammable vegetation within 30 feet from the residence.	Applicant	Prior to issuance of certificate of occupancy.	
15		<u><a href="#">FIRE022 - FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM - (HAZARDOUS CONDITIONS)</a></u> The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor completed prior to requesting a framing inspection. Due to substandard access, or other mitigating factors, small bathroom(s) and open attached porches, carports, and similar structures shall be protected with fire sprinklers. <b>(Salinas Rural Fire District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
			Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	

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16		<b>WP0063</b> – All new structures, and all existing structures receiving new roofing over 25 percent or more of the existing roof surface, shall require Class A roof construction. <b>(Fire District)</b>	Show on Building Permit plans.	Owner/Applicant	Prior to issuance of Building Permits	
17		<b>PBD008 – EASEMENT - CONSERVATION</b> A scenic easement shall be conveyed to the County over those portions of the property located within the designated floodplain area. An easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of grading and building permits. <b>(Planning and Building Inspection)</b>	Submit approved and recorded scenic easement to PBI.	Owner/Applicant	Prior to Issuance of Grading and Building Permits	
18		<b>PBD021 – LIGHTING – EXTERIOR LIGHTING PLAN</b> 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. <b>(Planning and Building Inspection)</b>	Submit three copies of the lighting plans to PBI for review and approval.	Owner/Applicant	Prior to issuance of building permits.	
19		<b>PBD – FLOOR PLAN REVISION</b> The floor plan of the existing residence shall be revised to eliminate the existing kitchen and all ancillary plumbing so that the remodeled residence contains only one kitchen. In addition, the internal circulation between the proposed addition and the area of existing house shall qualify as such per the building code definition. In addition, the floor plans shall be revised so that the proposed addition fully complies with the required 20-foot back yard setback.	1. Floor plans for the building permit application shall reflect the demolition of the kitchen and shall include all related plumbing, and internal circulation that qualifies as such. 2. The kitchen and all ancillary plumbing shall be removed. 3. Building Inspection to confirm removal.	Applicant  Applicant	1. Prior to issuance of building permits. 2. Prior to issuance of certificate of occupancy. 3. Certificate of Occupancy	

<i>Permit Condition #</i>	<i>Mitigation #</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
20		<p><b>PBD – CREEK CHANNEL PROTECTION</b></p> <p>The creek channel shall be protected from construction activities and equipment by delineating it with protective orange netting during construction of the project. Construction materials and debris shall not be placed within the creek channel at any time during construction. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection and shall be maintained through the entire construction process. <b>(Planning and Building Inspection)</b></p>	Place protecting netting along top portion of the creek channel and maintain it during the entire construction process.	Owner/Applicant	Prior to issuance of grading and building permits and during construction.	
21		<p><b>PBD – BUILDING PAD ELEVATION</b></p> <p>In order to confine the future creek channel overflow between the building pad and the creek, and to help protect Harper Canyon Road from potential flooding at this location, the building pad shall be elevated at least two feet above the ground in the area of the proposed addition and in any case constructed at least <u>435.8</u> feet above mean sea level as required in condition of approval # 4. <b>(Planning and Building Inspection)</b></p>	The applicant shall provide the Planning Department certification from a registered civil engineer or licensed land surveyor that a reference marker has been established at the building site to provide for the flood proofing and certification of the lowest floor elevation.	Owner/Applicant	Prior to the foundation pre-pour inspection.	
22		A deed restriction shall be recorded prior to issuance of a Building Permit that states, “This structure is approved for use as a single family dwelling and shall have only one kitchen.” The deed restriction shall also include the limits outlined in Condition #10.	Record Deed Restriction	Owner/Applicant	Prior to issuance of a Building Permit	