

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 020501

A. P. # 241-182-025-000

In the matter of the application of
Claude & Joan Keyzers (PLN020501)

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: (1) a Coastal Development Permit to allow development on slopes in excess of 30%; (2) a Coastal Administrative Permit to allow construction of a 125 foot long, 4 to 8 foot high retaining wall with grading (150 cubic yards cut and 20 yards fill); and (3) Design Approval. The project is located at 254 Highway One, Carmel, westerly of the intersection of Highlands Drive and Highway 1, Carmel Highlands area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on January 8, 2004.

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

1. FINDING: CONSISTENCY - The Project, as conditioned, is consistent with the Carmel Area Land Use Plan; Part 4 of the Coastal Implementation Plan (Regulations for Development in the Carmel Area Land Use Plan); and the Monterey County Zoning Ordinance (Title 20). Specifically, the proposed retaining wall complies with all applicable requirements of Section 20.64.230.

EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan; Part 4 of the Coastal Implementation Plan (Regulations for Development in the Carmel Area Land Use Plan); and the Monterey County Zoning Ordinance (Title 20). Staff notes are provided in Project File PLN020501.

(b) Project planner conducted an on-site inspection on November 1, 2002 to verify that the project on the subject parcel conforms to the plans listed above.

(c) A retaining wall and adjacent sculpture garden are allowed uses, in accordance with Section 20.14.040(F).

(d) The project complies with the regulations for development on slopes in excess of 30%, in accordance with Sections 20.64.230 and 20.146.080 of Monterey County Code.

(e) The project is not located within the public viewshed, as defined in section 20.146.020(Z) of the Coastal Implementation Plan (Regulations for Development in the Carmel Area Land Use Plan).

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

(g) The Carmel Unincorporated / Highlands Land Use Advisory Committee recommended approval of the project on May 19, 2003 by a vote of 4 to 0, with three members absent.

(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 PLN020501.

(i) Following findings and supporting evidence.

2. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks, and the Carmel Highlands Fire Protection District. Recommended conditions have been incorporated.

(b) Technical reports by outside archaeology, forestry, biological, geologic and geotechnical consultants indicate that 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. Agency staff concurs. Reports are in Project File PLN020501.

- “Geological Report” prepared by M. Jacobs & Associates, September 6, 1991.

- “Limited Soil Engineering Investigation” prepared by Landset Engineers, Inc., October 2003.

- “Preliminary Cultural Resources Reconnaissance” prepared by Archaeological Consulting, Salinas, CA, August 26, 1991.

- “Biological Assessment for the Keyzers Property Retaining Wall Project” prepared by Dale Hameister, Rana Creek Habitat Restoration, July 11, 2003.

- Letter from Glenn Flamik (consulting forester) of Forest City Consulting, March 10, 2003.

(c) Project planner conducted an on-site inspection on November 1, 2002 to verify that the project on the subject parcel conforms to the plans listed above.

(d) The project is not located within the public viewshed, as defined in section 20.146.020(Z) of the Coastal Implementation Plan (Regulations for Development in the Carmel Area Land Use Plan).

(e) 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 PLN020501.

3. **FINDING: DEVELOPMENT ON SLOPES IN EXCESS OF 30%** - There is no feasible alternative that would allow development to occur on slopes of less than 30%; or that the proposed development better achieves the goals, policies, and objectives of the Monterey County Local Coastal Program than other development alternatives.

EVIDENCE: (a) According to written statements by the applicant, the proposed project is to replace a retaining wall that collapsed in the El Nino storms of 1998, with the location and purpose of the new wall is substantially the same as the previous one. Furthermore, the project site presents an erosion hazard in its current condition. No feasible alternative location exists for placement of a new retaining wall.

(b) 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 PLN020501.

4. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15302 categorically exempts reconstruction of structures and facilities that will be located on the same site and will have substantially the same purpose and capacity as the structure replaced.

(b) No adverse environmental effects were identified during staff review of the development application during site visits on November 1, 2002.

5. **FINDING: ZONING COMPLIANCE:** - Approval of the Combined Development Permit, as described in condition number one and as conditioned, would ensure that the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and other applicable provisions of Title 20. Zoning violation abatement costs have been paid

(a) Approval of this project will partially clear Code Enforcement Violation No. CE010251 (unpermitted development on slopes exceeding 30%). To fully clear this violation a building permit must also be obtained; such permits cannot be issued without the requisite planning permits applied for in this project.

(b) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any other violations existing on subject property.

6. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE (a) The subject property is not described as an area where the Local Coastal Program requires access.

(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 3, the Shoreline Access Map, of the Carmel Area Land Use Plan.

(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(d) Staff site visit on November 1, 2002.

7. **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) Preceding findings and supporting evidence.

8. FINDING: APPEALABILITY - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Section 20.86.080.A.1 of the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, 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 Combined Development Permit consists of: (1) a Coastal Development Permit to allow development on slopes in excess of 30%; (2) a Coastal Administrative Permit to allow construction of a 125 foot long, 4 to 8 foot high retaining wall with grading (150 cubic yards cut and 20 yards fill); and (3) Design Approval. The project is located at 254 Highway One Carmel Highlands (Assessor's Parcel Number 241-182-025-000), westerly of the intersection of Highlands Drive and Highway One, Carmel Highlands Area, Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice that states, "A permit (Resolution 020501) was approved by the Zoning Administrator for Assessor's Parcel Number 241-182-025-000 on January 8, 2004. The permit was granted subject to 7 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. 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 copies of an exterior lighting plan that 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)**

4. Prior to issuance of building and grading permits, submit plans showing existing septic and proposed grading to the Division of Environmental Health for review and approval. **(Environmental Health Department)**

Prior to Final Building Inspection/Occupancy:

5. The site shall be landscaped. At least three weeks prior to final inspection, 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, either landscaping shall be 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)**

Continuous Permit Conditions:

6. 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)**
7. 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)**

PASSED AND ADOPTED this 8th day of January, 2004.

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.