

MIKE NOVO  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 030568

A.P. # 008-441-031-000

**FINDINGS & DECISION**

In the matter of the application of  
**Robert & Angela Kent (PLN030568)**

for a Coastal Administrative Permit in accordance with Chapter 20.76 (Coastal Administrative Permits) of Title 20, Monterey County Code (Zoning), to allow for a remodel and additions (first & second story) to an existing single-story single-family dwelling (1,870.5 sq. ft. added to 3,142 existing sq. ft.); and a variance request to reduce but still exceed the other-than-structural impervious coverage limit in the Pescadero Watershed of 4,000 sq. ft. (from 10,558 to 9,053 sq. ft. proposed), as well as the total impervious coverage limit of 9,000 (from 14,507 to 14,041.5 sq. ft. proposed) and Design Approval. The project is located at 1471 Padre Lane, Pebble Beach, Del Monte Forest area, Coastal Zone, came on regularly for hearing before the zoning administrator on April 8, 2004.

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

**1. FINDING: CONSISTENCY** – The subject Coastal Administrative Permit and Design Approval, as described in Condition 1 and as conditioned, conforms to the plans, policies, requirements, and standards of the certified Monterey County Local Coastal Program (LCP). The LCP for this site consists of the *Del Monte Forest Land Use Plan*, the *Regulations for Development in the Del Monte Forest Land Use Plan Area* (Part 5), Part 6 of the Coastal Implementation Plan (Appendices), and the Monterey County Zoning Ordinance (Title 20). The property is located at 1471 Padre Lane, Pebble Beach (Assessor's Parcel Number 008-441-031-000), Pebble Beach, in the Del Monte Forest area of the Coastal Zone. The parcel is zoned "LDR/1.5-D (CZ)"; i.e., "Low Density Residential, 1.5 acres per unit, in a Design Control District, in the 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 Section 20.70.050.B.4 of Title 20). No access is required as part of the project as no substantial adverse impact on public coastal 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) Planning and Building Inspection Department (PBID) staff have reviewed the project as contained in the application and accompanying materials for conformity with the certified Monterey County Local Coastal Program and have determined that the project is consistent as conditioned. Permit application, plans, and materials contained in Project File No. PLN030568.

(b) The project planner conducted an onsite inspection on February 3, 2004, to verify that the project on the subject parcel conforms to the certified Monterey County Local Coastal Program.

(c) The requested Coastal Administrative Permit and Design Approval are for continued residential development of the subject parcel. Residential development is permitted for the subject lot pursuant to Chapters 20.14 (LDR [CZ] Districts) and 20.76 (Coastal Administrative Permits) of Title 20.

(d) 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.

(e) The subject property is not adjacent to the seashore and is not described as an area where the Local Coastal Program requires public coastal access, according to Sections 20.70.050.B.4.c.i and ii of the Zoning Ordinance (Title 20).

(f) LAND USE ADVISORY COMMITTEE: The Del Monte Forest Land Use Advisory Committee voted 7 to 0 to recommend approval of the project without comment or conditions; Design Approval application found in File No. PLN030568.

(g) 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 No. PLN030568.

2. **FINDING: EXISTING CONDITIONS** – Currently, the project is inconsistent with Section 20.147.030.A.1 of the *Regulations for Development in the Del Monte Forest Land Use Plan Area*, which limits total impervious coverage to 9,000 square feet per residential parcel within the Pescadero, Seal Rock Creek and Sawmill Gulch Watersheds and the smaller unnamed watersheds which drain into the Carmel Bay Area of Special Biological Significance. Currently, the project is inconsistent with the limitation on additional impervious-surface coverage at up to 4,000 square feet, and is also inconsistent with the total limitation of 9,000 square feet of impervious coverage, but is consistent with the 5,000 sq. ft. limit on structural coverage (main plus accessory structures).

**EVIDENCE:** The project application, including the site plan, contained in file PLN030568, indicates that existing structural coverage totals 3,949 sq. ft., whereas existing other impervious coverage totals at least 10,558 sq. ft., for a combined total of 14,507 sq. ft. of impervious surfaces onsite, existing.

3. **FINDING: PROPOSED CONDITIONS** – The proposed project seeks to increase structural coverage by approximately 21%, or 1,039.5 sq. ft. (from 3,949 to 4,988.5 sq. ft.) and remain within the 5,000 sq. ft. limit. The project also seeks to reduce other existing impervious surfaces by approximately 14% (from 10,558 to 9,053 sq. ft.) and remain above the 4,000 sq. ft. limit by

5,053 sq. ft. (226% of limit). Overall, the project proposes to reduce the total impervious-surfaces coverage by approximately 3%, or 465.5 sq. ft. (14,507 sq. ft. total existing coverage to be reduced to 14,041.5 sq. ft.), and would remain at 5,041.5 sq. ft. above maximum allowable 9,000 sq. ft. total limit (156% of limit).

**EVIDENCE:** Project application and plans, as contained in File No. PLN030568.

- 4. FINDING: VARIANCE, SPECIAL CIRCUMSTANCES** – The strict application of the Section 20.147.030.A.1.b of the *Regulations for Development in the Del Monte Forest Land Use Plan Area*, which limits total impervious coverage to 9,000 square feet per residential parcel within the Pescadero, Seal Rock Creek and Sawmill Gulch Watersheds and the smaller unnamed watersheds which drain into the Carmel Bay Area of Special Biological Significance, is not found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification, because there are no special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, that would prevent the subject parcel from being put to productive residential use, or that would require the proposed project to exceed either the 4,000 sq. ft. partial limit or the 9,000 sq. ft. total limit on impervious surfaces. The letter of justification for the Variance request submitted by the applicant offers insufficient evidence of special circumstances that would warrant a granting of the requested Variance in this instance. Condition 6 requires the submittal of a revised site plan, subject to approval by the Director of Planning & Building Inspection, prior to issuance of grading and building permits, that indicates a reduction of other-than-structural coverage to within 4,000 sq. ft. in order to maintain consistency with Section 20.147.030.A.1 of the *Regulations for Development in the Del Monte Forest Land Use Plan Area*.

**EVIDENCE:** (a) The record indicates that the subject parcel is a nearly flat lot, which means that the entire driveway can feasibly be converted from impervious surfaces to pervious surfaces (e.g., pervious pavers or gravel), since impervious “all-weather”, surfaces are not required to ensure traction for emergency vehicles or normal residential access. The site plan indicates that the existing driveway totals 4,371 sq. ft. The proposed project exceeds the 4,000 sq. ft. limit on impervious surfaces (other than structural) by 5,053 sq. ft. (226% of limit). If the entire driveway were converted to pervious surfaces, an additional 1,053 sq. ft. would still exceed the 4,000 sq. ft. limit. It is feasible that 1,053 sq. ft. of additional existing hardscape be removed to maintain consistency with the policy and regulatory requirements of the certified Monterey County Local Coastal Program. Therefore, no special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area are found to exist.

(b) Project application and plans, as contained in File No. PLN030568.

(c) The letter of justification for the Variance request submitted by the applicant offers as evidence of special circumstances that, “*The subject property is located in the Pescadero Watershed within Del Monte Forest which limits impermeable site coverage to 4,000 square feet. Since other properties located in Del Monte Forest and under identical zoning classification (‘LDR’) are allowed similarly sized homes and impermeable coverage, the subject property is deprived of privileges enjoyed by properties in the vicinity and under identical zone classifications.*” This claim speaks more to the issue of

special *privileges* than to providing evidence of special *circumstances*, which include the size, shape, topography, location of the lot, or the surrounding area. This same evidence is offered by the applicant's letter of justification for the Variance request as evidence to support the required finding for special privilege, as well.

(d) Condition 6.

**5. FINDING: VARIANCE, SPECIAL PRIVILEGE** – The Variance request to exceed the allowable Pescadero watershed other-than-structural impervious-surface coverage limit by 5,053 sq. ft. (226% of limit) and to exceed the total combined impervious-surface coverage limit by 5,041.5 sq. ft. (156% of limit) would not 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:** (a) Nineteen (19) residential properties within the Pescadero watershed of the Del Monte Forest area with existing impervious-surface coverage above the allowable limits have been granted Variances to exceed the total Pescadero Watershed structural and “other” impervious surface coverage limitations where a finding of Special Circumstances could be made.

**6. FINDING: VARIANCE, AUTHORIZED USE** – The proposed use, which is residential in nature, is expressly authorized by the zone regulation governing the parcel of property.

**EVIDENCE:** The subject parcel is zoned for residential uses (LDR/1.5-D [CZ]; i.e., Low Density Residential, 1.5 acres per unit, Design Control District, Coastal Zone).

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

(b) The project is in seismic hazard zones “III” (moderate seismic risk) as found on the resource maps of the Del Monte Forest Land Use Plan.

(c) The project is within 1/8 of a mile from the Cypress Point fault, which is defined by the Monterey County Local Coastal Program as a potentially active fault. A preliminary geological hazards report was prepared for the subject parcel as part of a geotechnical report prepared for a prior project (PLN980612), authored by Harold Grice, a registered civil and geotechnical engineer with Grice Engineering, Inc., originally dated May 4, 1999 (addendum dated November 2003). Although the report's author is not a registered engineering geologist or registered geologist, as required by Section 20.147.060.A.6 of the *Regulations for Development in the Del Monte Forest Land Use Plan*, the report identifies the Cypress Point fault as “inactive,” and finds that the site is “suitable for the proposed development provided the recommendations of the design and construction of the foundation, as stated in the report, are followed.” Since the applicant insisted on submitting a report inconsistent with the certified Monterey County Local Coastal Program and has accepted the conclusions of the report as adequate, an Indemnification Agreement is required as Condition 5.

(d) 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 a negative

archaeological report dated December 15, 2003, prepared by Archaeological Consulting for the project; contained in the project file PLN030568. No known positive archaeological sites are located within 750 feet of the project site. Condition 10 has been added to require that work be stopped in the event that any archaeological resources are found on site.

(e) Staff conducted a site visit on February 3, 2004 to verify that the site is suitable for this use.

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

8. **FINDING: WATER PRORATIONING** – 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 prorating 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.

9. **FINDING: WATER ALLOTMENT** – 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.

10. **FINDING: WATER AVAILABILITY** – 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.

11. **FINDING: HEALTH AND WELFARE** – 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.

- 12. **FINDING: NO VIOLATIONS** – 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.
  
- 13. **FINDING: CEQA** – The project as conditioned will not have a significant environmental impact.  
**EVIDENCE:** Criteria contained in Article 19, Sections 15300.2 (Exceptions), 15301 (Existing Facilities), and 15304 (Minor Alterations to Land) of the California Environmental Quality Act Guidelines allow this project as conditioned 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.
  
- 14. **FINDING: APPEALABILITY** – 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**

THEREFORE, it is the decision of said Zoning Administrator that said application for a Coastal Administrative Permit be granted as shown on the attached sketch and subject to the attached conditions. It is further the decision of the Zoning Administrator to Deny the Variance in PLN030568.

**PASSED AND ADOPTED** this 8<sup>th</sup> day of April, 2004.

<b>Original Signed By:</b>
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MIKE NOVO  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO 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 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 Planning Commission 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 two years after the above date of granting thereof unless construction or use is started within this period.