

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 040172

A. P. # 008-293-006-000

In the matter of the application of  
**Lou Killian (PLN040172)**

**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 (1) Coastal Administrative Permit to allow the construction of a 5,709 square foot single family dwelling with associated grading (approximately 2,000 cubic yards cut/750 cubic yards fill); (2) a Coastal Development Permit for simultaneous site restoration to clear code enforcement violation ce040187 (unpermitted removal of 11 Monterey pines), and the removal of additional protected trees (4 Monterey pines and 1 oak) associated with construction of the residence, and (3) Design Approval. The project is located at 1236 Portola Road, Pebble Beach, southerly of the intersection of Sombria and Portola Lanes, Del Monte Forest area, Coastal Zone, came on regularly for meeting before the Zoning Administrator on September 30, 2004.

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) Plan Conformance. PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Del Monte Forest Land Use Plan (LUP), Part 5 of the Coastal Implementation Plan (CIP), and Part 6 of the Coastal Implementation Plan (CIP). 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 PLN030489.

(b) Land Use. The project for a single family home is an allowed use, in accordance with Section 20.14.040 CIP.

(c) Zoning Consistency. The parcel is zoned Low Density Residential, 1.5 units/acre, Design Control District, Coastal Zone ("LDR/1.5-D (CZ)"). The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.14.060 CIP.

(d) Tree Removal. See Finding #6.

(e) Land Use Advisory Committee (LUAC). The Del Monte Forest Land Use Advisory Committee recommended approval of the project by a vote of 5 to 0 (1 abstention and 3 absent). LUAC meeting minutes dated November 6, 2003.

(f) 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 PLN040172.

(g) Staff site visits to verify the project conforms to the plans listed above.

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

(b) Technical reports by outside archaeological, biological, forestry, geological 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 in Project File PLN040172 include:

- *Geologic Report for a Proposed Single Family Homesite: Portola Road, Pebble Beach, Monterey County, APN 008-293-006*, prepared by Nielsen and Associates, dated October 2000. [Submitted as part of a prior development application for this parcel - file # PLN000251 (Raval)]

- *Update of a Geologic Report for a Proposed Single Family Home*, prepared by Nielsen and Associates, dated April 29, 2004.

- *Forest Management Plan for Residential Parcel APN 008-293-006: Portola Road, Pebble Beach*, prepared by Stephen R. Staub, dated April 2001. [Submitted as part of a prior development application for this parcel - file # PLN000251 (Raval)]

- *Forest Management Plan Amendment*, prepared by Webster and Associates Professional Foresters, dated June 2004.

- *A Biological Report to Develop a Well and the Future Construction of a Single Family Dwelling on Portola Road, Pebble Beach (APN 008-293-006)*, prepared by Vernal L. Yadon, dated July 20, 2000. [Submitted as part of a prior development application for this parcel: file # PLN000251 (Raval)]

- Update letter to Biological report above, prepared by Vernal Yadon, dated May 4, 2004.

- Update letter to Biological report above, prepared by Vernal Yadon, dated August 3, 2004.

- Update letter to Biological report above and distribution map of Rosa Pinetorum, prepared by Vernal Yadon, dated August 8, 2004.

- *Preliminary Archaeological Reconnaissance of Assessor's Parcel Number 008-293-006, Pebble Beach, Monterey County, California*, prepared by Archaeological Consulting, dated July 31, 2000. [Submitted as part of a prior development application for this parcel: file # PLN000251 (Raval)]

(c) Staff site visits to verify that the site is suitable for this use.

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

**3. 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 mitigated negative declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:** (a) Initial Study. As part of Monterey County Planning and Building Inspection Department's permit process, staff prepared an Initial Study pursuant to CEQA. The Initial Study identified potentially significant effects to aesthetic, biological, and geologic resources, but applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of P&BI and is hereby incorporated by reference. (PLN040172). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.

(b) Mitigated Negative Declaration. On August 12, 2004, County staff completed an Initial Study for the project (PLN040172) in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on August 17, 2004, noticed for public review, and circulated to the State Clearinghouse from August 18 to September 16, 2004. The evidence in the record includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony.

The Zoning Administrator determines that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance. Therefore, a Mitigated Negative Declaration is hereby adopted by the Zoning Administrator.

(c) Mitigation Monitoring Program. A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. The applicant/owner must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval (**Condition 7**).

(d) Comments. No comments have been received. No issues remain.

(e) Public Testimony. The Zoning Administrator considered public testimony and the initial study at hearings on September 30, 2004.

**4. 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. All violations on the property will be cleared by issuance of this permit. Zoning violation abatement cost, if any, have been paid.

**EVIDENCE:** (a) A zoning violation for the unpermitted removal of protected tress (Monterey Pines) presently exists on the property. Replacement of the lost trees is a component of this project and will clear the violation, thus bringing the property into compliance with all applicable rules and regulations.

5. **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) 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 visits.

6. **FINDING: TREE REMOVAL:** The subject project minimizes tree removal in accordance with the applicable goals and policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan (Part 5).

**EVIDENCE:** (a) Policy 35 of the Del Monte Forest Land Use Plan states, “*New residential development, including driveways and parking areas, shall be sited and designed to minimize cutting of trees, especially trees screening the home from neighboring properties.*” The project as designed and conditioned reduces tree removal to 4 Monterey pines and 1 oak, in addition to the 11 Monterey Pines removed without permits.

- The residence and associated driveway are located in such a way as to limit tree removal to those specimens previously trimmed to the point of death or those subjected to bark beetle and pine pitch canker attack. Relocating the proposed house as designed would not save additional trees.

- Approximately 60 existing trees on the 92-acre property will remain. Trees on the perimeter of the property that will screen the development are not proposed for removal.

- A conservation easement will be established in the front and rear of the property for the restoration of and permanent protection / maintenance of the forest.

(b) Measures to protect trees during construction have been incorporated as a condition pursuant to Policy 34

(c) A condition has been incorporated requiring replacement of all removed trees at a minimum ratio of 1:1 pursuant to Policy 36.

(d) Forestry and Biological reports submitted as part of the project application

(e) Staff site visits

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 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).

(b) Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 (Coastal Commission). The project involves a conditional use permit to allow removal of trees. In addition, the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway 1).

## **DECISION**

It is the decision of the Zoning Administrator of the County of Monterey to adopt the Mitigated Negative Declaration and Mitigation Monitoring Program and approve 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 30th day of September 2004.

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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 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.