

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 040361

A.P.# 008-361-004-000

In the matter of the application of
Frank Straface TR et al. (PLN040361)

FINDINGS & DECISION

for a Variance in accordance with Title 20 (Zoning) Chapter 20.78 (Variances) of the Monterey County Code, to increase the allowable floor area ratio from (4,698 to 5,122) square feet an increase of 424 square feet. The property is located at 3361 17 Mile Drive, Pebble Beach, south of Palmero Way, Del Monte Forest area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on September 9, 2004.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto, now makes the following findings and decision:

FINDINGS OF FACT

- 1. FINDING: CONSISTENCY & SITE SUITABILITY** – The Project, as conditioned is consistent with applicable plans and policies, Del Monte Forest Land Use Plan, Coastal Implementation Plan (Parts 5 and 6), and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for residential development.
- The Straface Variance (PLN040361), as described in Condition #1 and as conditioned, is consistent with applicable plans and policies, Del Monte Forest Land Use Plan, Coastal Implementation Plan (Parts 5 and 6), and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development. The property is located at 3361 17 Mile Drive, Pebble Beach.
 - The property is zoned “LDR/1.5-D CZ ” or Low Density Residential, one point five acre minimum and Design Control District.
 - The site is physically suitable for the use proposed.
- EVIDENCE:**
- (a) Planning and Building Inspection 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 (Parts 5 and 6). PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN040361.
 - (b) Project planner conducted an on-site inspection on May, of 2004 to verify that the project on the subject parcel conforms to the plans listed above.
 - (c) The Del Monte Forest Land Use Advisory Committee recommended approval of the project by a vote of 5-0. LUAC meeting minutes dated July 29, 2004.

(d) 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 PLN040361.

(e) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Pebble beach Community Services District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and the Monterey County Health Department. There has been no indication from these 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.

(f) Project file PLN040361.

2. FINDING: VIOLATIONS - The proposed project remedies an existing violation on the property regarding work permitted under Planning file PLN020517 and building permit BP031014. When implemented, this project will legalize the increase to floor area thereby bringing the subject property into compliance with all rules and regulations pertaining to the property. All zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) On February 14, 2003, the Zoning Administrator approved Combined Development Permit consisting of a Coastal Administrative Permit to demolish an existing one-story single-family dwelling and construct a 4,698 sq. ft. two-story residence with an attached garage. The permit specified the correct square footages however due to a drafting error by the applicant the minor changes were not discussed or cleared through the Planning Department and were subsequently approved by the building department. The permit was issued and constructed to the stated specifications under building permit BP031014. Variance PLN040361 would remedy the violation of conditions of approval in planning file PLN020517.

(b) Project files PLN020517 and PLN040361

3. FINDING: SPECIAL CIRCUMSTANCES – There are special circumstances applicable to the subject property, relate to size, and an existing non-conformity to the development standards regarding floor area ratio. As a result, the strict application of Title 20 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Although it was determined that special, circumstances exist. Variances are granted on a case-by-case basis and the findings and evidence for this project do not necessarily apply to other parcels.

EVIDENCE: (a) See Evidence (a) for Finding 2.

(b) The applicant is seeking a Variance to legalize the current nonconformity to Floor Area Ratio due to a drafting error incorporated into the approved building permit, which allowed the structure to be constructed 424 square feet larger than was approved under (PLN020517). As a result, special circumstances apply in this case since the structure currently exists. The setbacks will not change however, the floor area ratio will increase from 17.5% to 19.1 % with the 424 square foot addition.

(c) The application and plans submitted for the Variance, including the Variance Justification Letter, in project file PLN040361 at the Monterey County Planning and Building Inspection Department.

4. **FINDING: NO SPECIAL PRIVILEGE** – This Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification in which such property is situated.

EVIDENCE: (a) The project proposes a 424 square foot addition above an existing garage attached to the main residence. This would increase the total square footage, to 5,122 square feet. This is significantly less than other residences in the neighborhood. Limitations on lot coverage and floor area ratio are intended to control bulk and mass of structures in proportion to the size of the parcel.

(b) Allowable floor area ratio for the “LDR” Low Density Residential District is 17.5%. The proposed addition of 424 sq. ft. will increase the floor area ratio from 17.5% to 19.1%. Research of Planning and Building Inspection Department files revealed that similar Variances were granted to neighboring properties, which have larger lots and larger residences. Specifically, Keller (PLN010488), to exceed Floor Area Ratio from 17.5% to 27.2% and Bosworth (PLN030094) was allowed to exceed floor area ratio (from 17.5% to 19.8%) and floor area ratio (from 17.5% to 19.6%).

(c) The application and plans submitted for the Variance, including the Variance Justification Letter, in project file PLN040361 at the Monterey County Planning and Building Inspection Department.

5. **FINDING: ALLOWED USE** – The Variance does not grant a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

EVIDENCE: The use is allowed per Section 20.14.040.A, Principal Uses Allowed in the Low Density Residential (CZ) zoning district.

6. **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, Public Works Department, Water Resources Agency, Environmental Health Division, and Pebble Beach Community Services District; California Coastal Commission. 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.

(b) Project File PLN040361

7. **FINDING: CEQA:** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15301 (e) categorically exempts alterations and additions to existing structures.

(b) No potential adverse environmental effects were identified during staff review of the development application.

8. 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 16, the Shoreline Access Map, of the Del Monte Forest 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.

9. FINDING: APPEALABILITY - The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE: (a) Chapter 20.86 of the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for Variance be granted as shown on the attached sketch, and subject to the attached conditions.

PASSED AND ADOPTED this 9th day of September, 2004.

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE 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 Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.