

MIKE NOVO  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 040411

A.P. # 009-262-016-000

In the matter of the application of  
**Paul & Marian Pickert (PLN040411)**

**FINDINGS & DECISION**

for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinance) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow development on 30% slopes for a barbeque and fire pit, retaining wall, brick patio and landscaped creek bed approved under a previous Design Approval (DA040054) and grading (approximately 70 cubic yards cut/fill). The property is located at 25872 Hatton Road, Carmel, westerly of the intersection of Hatton Road and Mesa Road, Coastal Zone, came on regularly for hearing before the Zoning Administrator on October 28, 2004.

Said Director of Planning and Building Inspection, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING: CONSISTENCY:** The Project, as conditioned is consistent with applicable plans and policies, the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20).  
**EVIDENCE:** (a) Plan Conformance. PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, Coastal Implementation Plan (Part 4), and the Monterey County Zoning Ordinance (Title 20). County staff determined that the project is consistent with these policies and standards as they apply to residential development. Staff notes are provided in Project File PLN040411.  
(b) Site Visit. Project planner conducted an on-site inspection on July 6, 2004 to verify that the project on the subject parcel conforms to the plans listed above.  
(c) Land Use. The project for facilities accessory to a single-family dwelling including retaining walls, patio, barbecue area, landscaping and associated grading is an allowed use, in accordance with Section 20.12.040.  
(d) Zoning Consistency. The parcel is zoned Medium Density Residential, 2 unit/acre, Design District, Coastal Zone ("MDR/2-D (CZ))." The project is in compliance with Site Development Standards for a Medium Density Residential District in accordance with Section 20.12.060.  
(e) 30% Slope. The project involves grading on 30% slope. See Finding #6.  
(f) Land Use Advisory Committee (LUAC). The Carmel Highlands/Unincorporated Land Use Advisory Committee recommended approval of the demolition and denial of the access road and slope waiver by a vote of 5 to 0 with one abstention. The LUAC's recommendations and concerns are addressed below.

- Exterior Lighting – The LUAC raised concerns about potential impacts from exterior lighting of the patio and barbecue areas onto neighboring properties. Specifically, they wanted to ensure that the lamppost fixtures utilized opaque glass as specified on the project plans. A condition has been incorporated which requires the lighting to be consistent with the project plans.
- Fire Hazard – The LUAC raised concerns about the potential fire hazard of the barbecue and fire pit area if wood or paper is burned. According to the applicant, the fire pit utilizes gas with decorative concrete logs and no actual wood burning will occur.
- Drainage Gully – The LUAC noted the natural drainage gully in the back of the property where the property drains towards. The Committee stated that it “must not be filled with soils, rocks, or garden clippings.” Although the Committee acknowledged that the gully would only carry water during heavy rains, they pointed out that it must be kept clean to avoid problems to downhill properties. A condition has been incorporated requiring the owner to properly and safely dispose of all material and debris so as not to create a hazard.
- 30% Slope – The LUAC recommended that no further development occur on slopes over 30%. The Carmel Area Land Use Plan and the Monterey County Zoning Ordinance strongly discourage development on 30% slope, but it is allowed under certain conditions. Any future development on the property, which occurs on 30% slope, is subject to additional permits and further review. A condition has been incorporated for a deed notice to be recorded to notify current and future owners of this regulation and permit requirements.
- (g) LUAC meeting minutes dated August 16, 2004.
- (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 PLN040411.

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 Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Carmel Highlands Fire Protection District. All applicable conditions recommended have been incorporated.
- (b) Technical reports by outside biological consultants indicate that there are no physical or environmental constraints such as 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 PLN040411 include:
- Biological Report prepared by Jeffrey B. Froke, Pebble Beach, CA, dated July 22, 2004.
- (c) Staff conducted an on-site visit on July 6, 2004 to verify that the site is suitable for this use.
- (d) No public facilities are necessary for the project.

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

- EVIDENCE:** (a) CEQA Guidelines lists classes of projects that have been determined to not have a significant effect on the environment and are therefore exempt from the provisions of CEQA. Section 15303 (Class 3) categorically exempts projects for structures accessory

to a single family dwelling (§15303(e)). Section 15304 (Class 4) categorically exempts projects for new gardening or landscaping (§15304(b)).

(b) The project consists of a barbeque pit area, retaining wall, brick patio and landscaped creek bed, landscaping and associated grading (approximately 70 cubic yards cut/fill). No tree removal is proposed.

(c) Site visits by staff and technical reports submitted by the applicant have determined that there are no unusual circumstances associated with the project or the property that would require environmental review. Technical reports include:

- Biological Report prepared by Jeffrey B. Froke, Pebble Beach, CA, dated July 22, 2004.

(d) No adverse environmental effects were identified during staff review of the development application during a site visit on July 6, 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. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

**EVIDENCE:** (a) The proposed work was permitted under Design Approval (DA040054). It was nearly completed when it was discovered that some of it occurred on 30% slope and a coastal development permit was required. However, no violation was recorded on the property and work has stopped pending this permit, which corrects any potential violation.

- 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 Figures 3, the Public 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 July 6, 2004.

- 6. FINDING: 30% SLOPE:** The project as designed and conditioned is consistent with policies in the Carmel Area Land Use Plan (Chapter 2.7.4) and the Monterey County Implementation Plan (Chapter 20.146.030.C.1) regulating development on 30% slope.

**EVIDENCE:** (a) The property is a sloping lot that drains into a drainage gully on the back of the property. Areas of the backyard are in excess of 30% slope. Backyard improvements include a barbeque pit, retaining wall, brick patio and landscaped creek bed and grading (approximately 70 cubic yards cut/fill), which were approved under a previous Design Approval (DA040054). Small portions of the barbecue pit retaining wall, patio, hot tub deck and creek bed are located on areas over 30% slope. The hot tub deck existed prior

to these activities and an existing retaining wall in the barbecue pit area was replaced and expanded as part of this project.

(b) There is no alternative that would allow the minor structures to be developed on slopes of less than 30% (CIP §20.146.030.C.1a). The development consists of a minor amount of work and minimal grading. Improvements have been sited to conform to the natural topography and to minimize grading (Policy 2.7.4.1 LUP). Soils information indicates that the soil type (SfF) is not prone to rapid runoff or unstable soil (Policy 2.7.4.11 LUP) and therefore no hazards would occur as a result of these improvements.

(c) A biological report prepared by Jeffrey B. Froke for this project determined that there would be no impact to any sensitive habitat or species (Key Policy 2.3.2 LUP). The improvements are subordinate to the natural scenic character and are not located within public view (Key Policy 2.2.2 LUP).

(d) Staff site visit on July 6, 2004.

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) The project was reviewed by Planning and Building Inspection Department, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Carmel Highlands Fire Protection District. 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) A condition has been incorporated that all debris shall be disposed of appropriately and not deposited in the drainage gully in order to avoid creating potential obstructions or hazards.

8. **FINDING: APPEALABILITY:** The project can be appealed to the Board of Supervisors and California Coastal Commission.

**EVIDENCE:** (a) Section 20.86.030.A of the Monterey County Coastal Implementation Plan, Part 1 (Board of Supervisors).

(b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Coastal Commission). Development that is permitted as a conditional use is appealable to the Coastal Commission. Development on 30% slope requiring a coastal development permit is a conditional use.

## DECISION

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

**PASSED AND ADOPTED** this 28th day of October, 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 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 Salinas.

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

<u>Monterey County Planning and Building Inspection</u> <u>Condition Compliance and/or Mitigation Monitoring</u> <u>Reporting Plan</u>	<u>Project Name: Pickert</u>  <u>File No: PLN040411</u> <u>APNs: 009-262-016-000</u>  <u>Approval by: Zoning Administrator</u> <u>Date: October 28, 2004</u>
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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.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</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</i>
1		<b>SPECIFIC USES ONLY</b> This Coastal Development Permit and Design Approval allows development on 30% slopes for a barbeque pit retaining wall, brick patio and landscaped creekbed approved under a previous Design Approval (DA040054) and grading (approximately 70 cubic yards cut/fill). The property is located at 25872 Hatton Road, Carmel (Assessor's Parcel Number 009-262-016-000), Carmel Area, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses 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> )	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

2		<p><b>NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Zoning Administrator for Assessor's Parcel Number 009-262-016-000 on October 28 2004. The permit was granted subject to 5 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. <b>(Planning and Building Inspection)</b></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.	
3		<p><b>DEED NOTICE – 30% SLOPE</b></p> <p>Prior to issuance of a building permit or start of use, the applicant shall record a deed notice which states: "This property contains areas in excess of 30% slope. Any further development beyond what is approved by this project (PLN040411), including grading and landscaping, which occurs in areas over 30% slope is subject to subject to separate permits and review." <b>(Planning and Building Inspection)</b></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.	
4		<p><b>EXTERIOR LIGHTING</b></p> <p>All exterior lighting shall be unobtrusive, compatible with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The exterior lighting shall be consistent with the approved plans contained in project file PLN040411, including the use of opaque glass for the lamppost fixtures. <b>(Planning and Building Inspection)</b></p>	Exterior lighting shall be consistent with the approved plans contained in project file PLN040411.	Owner/ Applicant	Prior to final of Grading and/or Building Permits	
5		<p><b>DEBRIS DISPOSAL</b></p> <p>The applicant shall dispose of all lawn, landscaping and gardening debris and materials in an appropriate and safe manner. Debris shall not be deposited in the drainage gully or stored in a way that it may be washed into the gully. <b>(Planning and Building Inspection Department)</b></p>	Adhere to condition	Owner/ Applicant	Ongoing	

