

MIKE NOVO  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 040627

A.P. # 243-163-002-000

In the matter of the application of

**Kenneth & Darla Shachmut (PLN040627)**

**FINDINGS & DECISION**

for a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit to allow first floor (2,242 sq. ft. existing, 2,599 sq. ft. [total] proposed) and second floor (690 sq. ft. existing, 1,045 sq. ft. [total] proposed) additions, and replacement of a first floor deck (358 sq. ft. existing, 466 sq. ft. proposed) within a scenic road corridor; a Coastal Development Permit for development within 750 feet of archaeological resources; a Variance to exceed allowable lot coverage (15%) for a total coverage of 17.61% and to allow portions of the residence which are legal nonconforming as to setback to remain; and Design Approval. The project would not allow any work on or within the portions of the structure, which are legal nonconforming as to setback. This project is located at 133 Carmel Riviera Drive, Carmel, southwesterly of Carmel Riviera Drive, Coastal Zone, came on regularly for hearing before the Zoning Administrator on February 10, 2005.

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:** The Combined Development Permit with subject Variance and Design Approval (**Shachmut; PLN040627**), as described in condition #1 is to allow first floor and second floor additions, and replacement of a first floor deck, and a Variance request to exceed allowable lot coverage (15%) for a total coverage of 17.61%. The project allows portions of the residence, which are legal nonconforming as to setback to remain. The project shall not allow any work on or within the portions of the structure, which are legal nonconforming as to setback.

The property is located at 133 Carmel Riviera Drive, Carmel (Assessor's Parcel Number 243-163-002-000) southwesterly of Carmel Riviera Drive in the Coastal Zone. The location is zoned for "Low Density Residential," or LDR, 1 unit/1 acre in a Design-Control area with a 26 foot height limit. Except for the Variance request, the project, as conditioned, conforms with the plans, policies, requirements, and standards of the General Plan, Carmel Area Plan, Part 4 of the Coastal Implementation Plan and the Monterey County Zoning Ordinance (Title 20). The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20 and any zoning violation abatement costs have been paid.

**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan, the Carmel Area Plan, and the Coastal Implementation Plan.

**EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file (PLN040627) at the Monterey County Planning and Building Inspection Department.

**EVIDENCE:** Design Approval Request form with plans recommended for approval by the Carmel Highlands Land Use Advisory Committee.

**EVIDENCE:** Chapter 20.14 and §20.14.020 of the Monterey County Zoning Ordinance, Title 20. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

**EVIDENCE:** Redesign of the project to construct the deck at a height less than 24" above grade eliminates the need for the variance.

2. **FINDING:** The proposed project will not have a significant environmental impact.

**EVIDENCE:** Section 15303 (c) of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

**EVIDENCE:** A Soil Engineering Investigation report has been prepared for the subject parcel by LandSet Engineers, Inc., dated July 2004. The investigation finds the project feasible without potential significant impacts provided that the recommendations included in the report are implemented during construction. Condition no. 4 found in the attached Conditions of Approval require a recorded Notice of this report and that all development shall be in accordance with this report.

**EVIDENCE:** An Archaeological Report was prepared by Archaeological Consulting, dated June 8, 2004. Because no surface evidence of potentially significant archaeological materials was seen on the parcel, the archaeological consultants recommend that the proposed construction not be delayed for archaeological reasons. Condition 3 found in the attached Conditions of Approval requires that work be stopped if cultural, archaeological, historical or paleontological resources are uncovered, and the project planner and archaeologist visit the site immediately to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

**EVIDENCE:** The addition to an existing residence does not have a potentially significant visual impact upon the public views from the Highway One Scenic Corridor. The subject parcel is a block west of said Highway, screened by intervening vegetation and residences.

3. **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 the Carmel 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 found no evidence of informal public trails on the subject property.

4. **FINDING: NO VIOLATIONS EXIST** - That the subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist on 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.

5. **FINDING: HEALTH AND SAFETY** – 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:** Preceding findings and supporting evidence.

6. **FINDING:** The project is appealable to the Board of Supervisors and the Coastal Commission.

**EVIDENCE:** Section 20.86.30 A of the Monterey County Zoning Ordinance (Title 20).

### **DECISION**

THEREFORE, it is the decision of said Zoning Administrator that said application for a Combined Development Permit, but without the Variance, be granted as shown on the attached sketch, and subject to the attached conditions.

**PASSED AND ADOPTED** this 10th day of February 2005.

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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 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 Salinas.

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

<b>Monterey County Planning and Building Inspection</b> <b>Condition Compliance and/or Mitigation Monitoring Reporting Plan</b>	<b>Project Name:</b> <u>SHACHMUT</u>	
	<b>File No:</b> <u>PLN040627</u>	<b>APNs:</b> <u>243-163-002-000</u>
	<b>Approval by:</b> <u>Zoning Administrator</u>	<b>Date:</b> <u>2/10/2005</u>

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1.		<b>SPECIFIC USES ONLY :</b> This Combined Development Permit ( <b>SHACHMUT; PLN040627</b> ) allows first floor (2,599 square foot) and second floor (1,045 square foot) additions, and replacement of a first floor deck (466 square foot) within a Scenic Road Corridor; development within 750 feet of archaeological resources and Design Approval. The project shall not allow any work on the portions of the structure, which are legal nonconforming as to setback. The project is located at 133 Carmel Riviera Drive, Carmel (Assessor's Parcel Number 243-163-002-000), southwesterly of Carmel Riviera Drive, 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 otherwise stated	

**PLANNING & BUILDING INSPECTION DEPARTMENT**  
**CONDITIONS OF APPROVAL**

2.		<p><b>NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice, which states: "A permit (Resolution 040627) was approved by the Zoning Administrator for Assessor's Parcel Number 243-163-002-000 on February 10, 2005. The permit was granted subject to 10 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>STOP WORK - RESOURCES FOUND</b></p> <p>If, during the course of construction, cultural, archaeological, historical or 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 a qualified professional archaeologist can evaluate it. 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. <b>(Planning and Building Inspection)</b></p>	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical, or paleontological resources are uncovered. 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.	Owner/ Applicant/ Archaeologist	Ongoing	
4.		<p><b>NOTICE OF REPORT:</b> Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder, which states: A Soil Engineering Investigation report has been prepared for this parcel by LandSet Engineers, Inc., dated July 2004 and is on record in the Monterey County Planning and Building Inspection Department Library No. _____. All development shall be in accordance with this report." <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	

5.		<b>LIGHTING – EXTERIOR LIGHTING PLAN</b> 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 3 copies of an exterior lighting plan, which 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. <b>(Planning and Building Inspection)</b>	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
6.		The deck shall be designed to provide sufficient fill underneath to cause the deck to not exceed 24” above grade. <b>(Planning &amp; Building Inspection)</b>	Include on building permit plans.	Applicant	Prior to issuance of grading or building permits.	
<p style="text-align: center;"><b>CARMEL HIGHLAND FIRE CONTROL DISTRICT CONDITIONS OF APPROVAL</b></p>						
7.		<b>ADDRESSES FOR BUILDINGS</b> All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers, and symbols for	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of building permit	

		addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. <b>(Responsible Land Use Department: Carmel Highlands Fire District.)</b>	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
8.		<b>DEFENSIBLE SPACE REQUIREMENTS -</b> Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. <b>(Responsible Land Use Department: Carmel Highlands Fire District.)</b>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
9.		<b>FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</b> The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	



		NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. <b>Responsible Land Use Department: Carmel Highlands Fire District.</b>	Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
			Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	
WATER RESOURCES AGENCY CONDITION OF APPROVAL						
10.		<b>WATER CONSERVATION MEASURES:</b> The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to: a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. <b>(Water Resources Agency)</b>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/ Occu- pancy	