

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 040770
APN# 229-071-009-000
FINDINGS & DECISION

In the matter of the application of
OPDENDYK TERRY L & JANICE G TRS (PLN040770)

Combined Development Permit consisting of an Administrative Permit for a 124 square foot addition to an existing 1,872 square foot single family residence and a Variance to increase coverage from 46.75% to 49.85% in a planned unit development. The project is located at 188 Monterey Dunes Way Castroville, about 0.2 mile south of the guard house on Monterey Dunes Way, North County Coastal Area., North County Area, Coastal Zone. The project came on regularly for hearing before the Zoning Administrator on June 30, 2005.

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

FINDINGS OF FACT

1. FINDING: CONSISTENCY & SITE SUITABILITY –

The Combined Development Permit as described in Condition #1 and as conditioned is consistent with the plans, policies, requirements and standards of the Monterey County General Plan, the North Monterey County Land Use Plan, Monterey County Coastal Implementation Plan Part 2, and the Monterey County Zoning Ordinance (Title 20). The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The application and plans submitted for the Combined Development permit are found in file PLN040770 at the Monterey County Planning and Building Inspection Department.
 - (b) Staff conducted a site visit on February 19, 2004 to verify that the proposed project complies with regulations in Title 20, as well as policies in the Plans listed above. The proposed project will not have a significant adverse effect on the public viewshed as conditioned.
 - (c) The North County Coastal Land Use Advisory Committee reviewed the Combined Development Permit and Design Approval and recommended approval by a vote of 6-0 on May 2, 2005. The LUAC expressed a concern about this project setting a precedent for remodeling at the Monterey Dunes Colony and variances for coverage. These items are discussed in the variance findings below.
 - (d) The project has been reviewed and found to be in compliance under Title 20, sections 20.12.040 and 20.42.030 (F).
 - (e) The project has been reviewed by the Monterey County Planning and Building Inspection Department, North County Fire Protection District, Monterey County Public Works Department, Monterey County Parks Department, and 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.

- 2. FINDING:** **CEQA (Exempt)** - The project is exempt from environmental review.
- EVIDENCE:** CEQA Guidelines Section 15301 (e) categorically exempts additions to existing structures from environmental review. No adverse environmental effects were identified during staff review of the development application and during the site visit. There are no environmentally sensitive habitats or trees that would be impacted. There are no unusual circumstances related to the project or property. Visual impacts would not be significant.
- 3. FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.
- EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
- 4. FINDING:** **VARIANCE (SPECIAL CIRCUMSTANCES AND NO GRANT OF SPECIAL PRIVILEGES)** - There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. As a result, the strict application of Title 21 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Combined Development Permit and Design Approval described in Condition #1 do 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. 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) **SPECIAL CIRCUMSTANCES**-The size of the subject property is quite small. However, being part of a planned unit development (PUD) there is a great deal of open space that is held in common for the beneficial use and enjoyment of all of the property owners. There are 105 acres owned by the colony and the bulk of it is in open space. By the utilization of the common open space and restricting the separately owned lot to below the minimum of 6,000 s.f. required in the MDR zoning, the PUD limits the impact of the development. However, the strict application of the 35% coverage requirement (in the MDR) deprives the subject property of the right to add to structures enjoyed by other properties in the vicinity and under identical zone classification. Planner has identified four variances for coverage in the Monterey dunes Colony that have been granted.
- (b) **NO GRANT OF SPECIAL PRIVILEGE**- Approval of the Variance as described in Condition #1 and Finding #1, will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification. Several properties in the same subdivision have been granted variances, PC94171, PC93187, PC07904, ZN95059, and PLN030523.
- (c) Staff's site visit and analysis of other properties in the vicinity and under identical zone classification.
- (d) The application and plans submitted for the Variance and Design Approval, including the Variance Justification Letter, in project file PLNO40770 at the Monterey County Planning and Building Inspection Department.
- 5. FINDING:** **VARIANCE (NO GRANT OF UNAUTHORIZED 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 residential use is allowed per Section 20.12.040(A), Principal Uses Allowed in the Medium Density Residential zoning district.

6. FINDING: HEALTH AND SAFETY - The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood; or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

7. 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 Moss Landing Community Plan, Public Access and Recreation Map of North County 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.

8. FINDING: APPEALABILITY - The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

EVIDENCE: Section 20.86.040 of the Monterey County Zoning Ordinance (Title 20).

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that 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 June, 2005.

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

**Monterey County Planning and Building Inspection
Condition Compliance and/or Mitigation Monitoring
Reporting Plan**

Project Name: Opdendyk

File No: PLN040770 APN(s): 229-071-009-000

Approval by: Zoning Administrator Date: June 30, 2005

**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 | | <p><i>PBD029 - SPECIFIC USES ONLY</i></p> <p>The Opdendyk Combined Development Permit including: a Coastal Administrative Permit to allow for the construction of a 124 square foot addition to a one-story 1,872 square foot single family dwelling in a planned unit development and Variance to allow an addition to lot coverage from 46.75% existing to 49.85%. The project is located at 188 Monterey Dunes Way, Castroville (Assessor's Parcel Number 229-071-009-000), south of Monterey Dunes Club House, North County 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.(Planning and Building Inspection)</p> | Adhere to conditions and uses specified in the permit. | Owner/ Applicant | Ongoing unless otherwise stated | |

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| 2 | <p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution 040770) was approved by the Zoning Administrator of Monterey County for Assessor's Parcel Number 229-071-009-000 on June 30, 2005. The permit was granted subject to 6 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.(Planning and Building Inspection)</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>PBD030 - STOP WORK - RESOURCES FOUND</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.(Planning and Building Inspection)</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 | |

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| 4 | <p>PBD021 – LIGHTING – EXTERIOR LIGHTING PLAN</p> <p>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.(Planning and Building Inspection)</p> | Submit three copies of the lighting plans to PBI for review and approval. | Owner/ Applicant | Prior to issuance of building permits. | |
| 5 | <p>WR40 - WATER CONSERVATION MEASURES</p> <p>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:</p> <p>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.</p> <p>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.(Water Resources Agency)</p> | Compliance to be verified by building inspector at final inspection. | Owner/ Applicant | Prior to final building inspect-ion/ occupancy | |
| 6 | <p>FIRE021 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</p> <p>The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s).</p> | Applicant shall enumerate as “Fire Dept. Notes” on plans. | Applicant or owner | Prior to issuance of building permit. | |

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| | | Installation shall be in accordance with the applicable 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. North County Fire District. | 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 | |
| | | <i>End of conditions</i> | | | | |