MIKE NOVO ZONING ADMINISTRATOR COUNTY OF MONTEREY STATE OF CALIFORNIA

RESOLUTION NO. 050632

A. P. # 008-171-035-000

In the matter of the application of ERLE A. NYE & ALICE A. NYE TRS (PLN050632) FINDINGS AND DECISION

to allow a Combined Development Permit in accordance with Title 20 (Zoning) Chapter 20.76 (Combined Development Permits) of the Monterey County Code, consisting of (1) a Coastal Administrative Permit and Design Approval for the addition of a 727 square main level addition and a 816 square foot lower level addition to a single family dwelling which exceeds 10% of the existing floor area and (2) a Coastal Development Permit to remove 5 Monterey pine trees. The property is located on 3126 Fergusson Lane, Pebble Beach, Del Monte Forest Land Use Plan and came on regularly for meeting before the Zoning Administrator on May 25, 2006.

Said Zoning Administrator, 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 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) Planning and Building Inspection (PBI) 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 (Part 5) and Part 6 of the Coastal Implementation Plan. Staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and has 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 PLN050632.
  - (b) Project planner conducted an on-site inspection on November 15, 2005 to verify that the project on the subject parcel conforms to the plans listed above.
  - (c) The parcel has two zoning designations: Low Density Residential, 1 acre/unit, Design Control District, Coastal Zone [LDR/1-D(CZ)] and Resource Conservation, Design Control District, Coastal Zone [RC-D(CZ)]. The Del Monte Forest Land Use map designates the area called out as a "Forest Preserve" on the final map recorded in Volume 11 Page 34 of Cities and Towns zoned as "Resource Conservation" and the remaining area of the parcel is designated as residential. There is a discrepancy between the Land Use map and the Zoning map; in that the area where the existing house is located is zoned as Resource Conservation, which would make the dwelling a legal nonconforming use. However staff has determined this to be a mapping error, that the area of the addition is located in the Low Density Residential District and that the proposed addition is therefore consistent with that zoning

designation and the site development standards listed in Section 20.14.060 of Title 20 (Low Density Residential District).

(e) 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 No. PLN050632.

(f) The project was not referred to the Del Monte Forest Land Use Advisory Committee for review. Based on current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this project did not warrant referral because the development is not considered to be of controversial nature.

# 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, Pebble Beach Community Services District, Public Works, Environmental Health and Water Resources Agency. Recommended conditions have been incorporated.

(b) Staff conducted an on-site visit on November 15, 2005 to verify that the site is suitable for this use.

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

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

**EVIDENCE:** (a) CEQA Guidelines Section 15301(e) categorically exempts additions to an existing structure.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on November 15, 2005.

(c) Development is largely contained in an already disturbed area of the property. There are no unusual circumstances related to the project or property.

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. Zoning violation abatement cost, if any, have been paid.

**EVIDENCE:** Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations existing on subject property.

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 visit on November 15, 2005.
- 6. **FINDING:** TREE REMOVAL Tree removal is the minimum required under the circumstances of the case. The removal will not involve a risk of adverse environmental impacts such as: soil erosion, water quality, ecological impacts, noise pollution, air movement and wildlife habitat.
  - **EVIDENCE:** (a) The project is proposed in a manner that would result in the removal of five Monterey pine trees. The parcel is densely forested and the area of addition is the least intrusive on the existing forest. Given all other site constraints and the layout and floor plan of the dwelling, development of the addition at the proposed location would result in the least amount tree removal.
    - (b) A Forest Management Plan (FMP) prepared for the application, dated February 6, 2006 (LIB050632) states the trees to be removed will not adversely effect erosion, water quality of the surrounding area, air movement and noise or air pollution.
    - (c) Tree replacement is required on a one to one basis pursuant to Coastal Implementation Plan Section 20.147.050.D.4. See Condition No. 10.
- 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:** 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:** Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

#### 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 25th day of May, 2006.

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

JUN 1 6 2006

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 Monterey.

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: Nye

File No: PLN050632

Approval by: Zoning Administrator

**APNs:** 008-171-035-000

Date: May 25, 2006

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

Permit Mitig. Cond. 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)
	PBD029 - SPECIFIC USES ONLY This Combined Development Permit (Nye-PLN050632) allows a Coastal Administrative Permit and Design Approval for the addition of a 727 square foot main level addition and an 816 square foot lower level addition to a single family dwelling which exceeds 10% of the existing floor area and (2) a Coastal Development Permit to remove 5 Monterey pines. The property is located at 3162 Fergusson Lane, Pebble Beach (Assessor's Parcel Number 008-171-035-000), Del Monte Forest Land Use Plan. 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. (Resource Management Agency/Planning and Building Inspection)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

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)
2.		PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 050632) was approved by the Zoning Administrator for Assessor's Parcel Number 008-171- 035-000 on May 25, 2006. The permit was granted subject to 15 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. (Resource Management Agency/Planning and Building Inspection)	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.		PBD030 - STOP WORK - RESOURCES FOUND  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. (Resource Management Agency/Planning and Building Inspection)	the site to determine the extent of the resources and to develop proper	Owner/ Applicant/ Archaeo- logist	Ongoing	•

Permit Cond. Number	Mitig, Number	Conditions of Approval and/or Miligation Measures and Responsible Land Use Department	to	ompliance or Monitoring Actions be performed. Where applicable, a prtified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
4.	The second management of the second	PBD011 - EROSION CONTROL PLAN AND SCHEDULE The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of Planning and Building Inspection. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of	1)	Evidence of compliance with the Erosion Control Plan shall be submitted to PBI prior to issuance of building and grading permits.	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
		Planning and Building Inspection. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. (Resource Management Agency/Planning and Building Inspection)	2)	Evidence of compliance with the Implementation Schedule shall be submitted to PBI during the course of construction until project completion as approved by the Director of PBI.	Owner/ Applicant	Prior to Final Inspect- ion	

Permit Cond. Number	Milig. 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)
5.		PBD016 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in	Proof of recordation of the Indemnification Agreement, as	Owner/ Applicant	Upon demand	
		consideration of the approval of this discretionary	outlined, shall be submitted to PBI.		of	
		development permit that it will, pursuant to agreement			County	
		and/or statutory provisions as applicable, including but			Counsel	
	1	not limited to Government Code Section 66474.9, defend,			or	
		indemnify and hold harmless the County of Monterey or			concur-	
		its agents, officers and employees from any claim, action			rent with	
		or proceeding against the County or its agents, officers or			the	
		employees to attack, set aside, void or annul this			issuance of	
		approval, which action is brought within the time period			building	
		provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The			permits,	
		property owner will reimburse the county for any court			use of	
		costs and attorney's fees which the County may be			the	
		required by a court to pay as a result of such action.		·	property,	Ÿ
		County may, at its sole discretion, participate in the			filing of	
		defense of such action; but such participation shall not			the final	
		relieve applicant of his obligations under this condition.		·	map,	
		An agreement to this effect shall be recorded upon			which-	
	1	demand of County Counsel or concurrent with the			ever	
		issuance of building permits, use of the property, filing of			occurs	
		the final map, whichever occurs first and as applicable.			first and	
		The County shall promptly notify the property owner of			as	
		any such claim, action or proceeding and the County shall			applic-	
		cooperate fully in the defense thereof. If the County fails	,		able	,
		to promptly notify the property owner of any such claim,				
		action or proceeding or fails to cooperate fully in the				
		defense thereof, the property owner shall not thereafter be				
		responsible to defend, indemnify or hold the county				
		harmless. (Resource Management Agency/Planning				
		and Building Inspection)		1.		

Permit Cond. Nuniber	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)
6. PBD018(A MAINTEN ONLY) The site shadoccupancy, submitted to Inspection required for landscape p	The site shall be landscaped. At least 60 days prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and	Submit landscape plans and contractor's estimate to PBI for review and approval.	Owner/ Applicant/ Contractor	At least 60 days prior to final inspect- ion or occu- pancy		
		size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Resource Management Agency/Planning and Building Inspection)	All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.	Owner/ Applicant	Ongoing	,

Pérmit Cond. Number	Milig. 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)
7.		PBD021 – LIGHTING – EXTERIOR LIGHTING PLAN 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. (Resource Management Agency/Planning and Building Inspection)	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
8.		PBD026 – NOTICE OF REPORT Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Frank Ono, dated February 6, 2006 and is on record in the Monterey County Planning and Building Inspection Department Library No. LIB060221. All development shall be in accordance with this report." (Resource Management Agency/Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to issuance of grading and building permits	

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)
9.		PBD032(A) - TREE PROTECTION  Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Resource Management Agency/Planning and Building Inspection)	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to issuance of grading and building permits	
10.		PBD - TREE REPLACEMENT (NON-STANDARD) The five Monterey pines to be removed shall be replaced on a one to one basis. The trees shall be 5 gallon or larger Monterey pines preferably, however Monterey Cypress may be substituted if pines are not available. Spacing between the trees shall be at least eight feet. Occasional deep watering (more than two weeks apart) during the late spring, summer and fall is recommended during the first two years after establishment. (Resource Management Agency/Planning and Building Inspection)	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to final inspection	
11.		WR3 - DRAINAGE PLAN - RETENTION The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. The plan shall include retention/percolation facilities to mitigate the impact of impervious surface stormwater runoff. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)	Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.	Owner/ Applicant/ engineer	Prior to issuance of grading or building permits	

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)
12.		WR8 - COMPLETION CERTIFICATION The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention/retention facilities have been constructed in accordance with approved plans. (Water Resources Agency)	Submit a letter to the Water Resources Agency, prepared by a registered civil engineer or licensed contractor, certifying compliance with approved drainage plan.	Owner/ Applicant/ Engineer/ Contractor	Prior to final inspection	
13.		WR40 - WATER CONSERVATION MEASURES 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.  (Water Resources Agency)	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/ occupan cy	
14.		WR43 - WATER AVAILABILITY CERTIFICATION The applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	

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)
15.		PBD040 – HEIGHT VERIFICATION	1) The applicant shall have a benchmark	Owner/	Prior to	
		The applicant shall have a benchmark placed upon the	placed upon the property and identify	Applicant	Issuance	
		property and identify the benchmark on the building	the benchmark on the building plans.		of	
		plans. The benchmark shall remain visible onsite until	The benchmark shall remain visible		Grading	
		final building inspection. The applicant shall provide	onsite until final building inspection		or	
		evidence from a licensed civil engineer or surveyor, to			Building	
		the Director of Planning and Building Inspection for		_	Permits	
		review and approval, that the height of the structure(s)	2) The applicant shall provide evidence	Engineer/	Prior to	
		from the benchmark is consistent with what was	from a licensed civil engineer or	Owner/	Final	
		approved on the building permit associated with this	surveyor, to the Director of Planning	Applicant	Inspect-	
		project. (Resource Management Agency/Planning and	and Building Inspection for review		ion	
		Building Inspection)	and approval, that the height of the			
			structure(s) from the benchmark is			
			consistent with what was approved			·
			on the building permit.			•













