

MONTEREY COUNTY PLANNING COMMISSION

Meeting: August 31, 2011 Time: 10:30 A.M		Agenda Item No.: 2
Project Description: Appeal by Angela Naskar of the Zoning Administrator's decision approving a Design Approval application to allow the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing maximum six feet in height, and relocation of existing driveway on Cormorant Road to Customs Road. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing.		
Project Location: 2993 Cormorant Road, (Pebble Beach)		APN: 007-262-016-000
Planning File Number: PLN110098		Owner: Kehring, Doug & Carrie Agent: Tony Lombardo, Lombardo & Gilles
Planning Area: Greater Monterey Peninsula Area Plan		Flagged and staked: Yes
Zoning Designation: : MDR/B-6-D (Medium Density Residential, with B-6 and Design Control overlays)		
CEQA Action: Categorically Exempt per Section 15303 (a) of the CEQA Guidelines		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit D**) to:

- 1) Categorically Exempt PLN110098 the application from environmental review, per Section 15303 (a) of the CEQA Guidelines;
- 2) Deny the appeal and uphold the Zoning Administrator's decision to approve the project, based on the findings and evidence and subject to the recommended conditions of approval (**Exhibit D**):

PROJECT OVERVIEW:

This project was considered and approved by the Zoning Administrator on June 9, 2011. The approval of the project was appealed and the Planning Commission is the appropriate authority to consider the appeal. The hearing before the Commission is considered a De Novo hearing.

The project consists of the demolition of an existing 1,740 square foot, one-story single family dwelling and attached garage, and the construction of a new 2,895 square foot, two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, and a 1,093 square foot second level with 588 square feet of second story decks. The subject property is a corner lot located at the intersection of Cormorant Road and Customs Road in the non coastal area of Pebble Beach. The review of the application included consideration of the root system of an existing Monterey Pine located just outside the subject site on the adjacent property to the south (See Site Plan – Exhibit D). The root system extends on to the site and has been covered by an asphalt concrete layer that is proposed for removal. In order to protect the root system and the tree, the approval of the project includes a standard tree protection condition (Condition No. 6) and a non standard condition which requires supervision of the removal of the asphalt concrete in the area of the root system by a certified arborist (Condition No. 10). The later condition also requires that an appropriate substituting material, approved by a certified arborist, be installed in this area to protect the root system in the long term. This

condition was added by the Zoning Administrator at the public hearing on the project. No other issues remain unresolved and the project as proposed complies with all applicable site development standards of the Zoning Ordinance and policies of the General Plan.

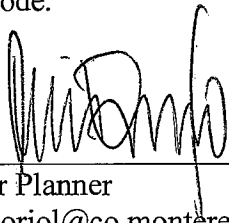
The project was originally scheduled for hearing before the Zoning Administrator on May 26, 2011. The hearing was continued to June 9, 2011 upon the applicant's request. The Zoning Administrator considered and approved the proposed project on June 9, 2011 subject to ten conditions of approval. In addition to the conditions discussed above, the conditions address archaeological resources, landscaping, exterior lighting, building height, and consistency with standards of the Monterey Bay Unified Air Pollution Control District for demolition of structures. The appeal of the approval of the project was submitted on July 1, 2011, by John S. Bridges of Fenton & Keller, on behalf of Angela Naskar, owner of the adjacent property to the south. In general, the issues raised on the appeal include that certain conditions of approval are inadequate; that there was a lack of a proper public notice and a lack of a fair hearing; that the staking/netting of the project was inaccurate; that there is no evidence cited to support the Zoning Administrator approval of the project; and that the project does not assure protection of neighborhood character. The appellant also cites a number of court cases to suggest that the proposed project is not exempt from environmental review. The appeal is attached as Exhibit C and staff's responses are included in Exhibit B.

OTHER AGENCY INVOLVEMENT: The subject Design Approval Application was not reviewed by any other agency. All conditions of project approval have been recommended by the RMA – Planning Department.

The project was reviewed by the Del Monte Forest Land Use Advisory Committee on August 18, 2011. The LUAC recommended approval of the proposed project by a unanimous vote.

Note: The CEQA determination is appealable to the Board of Supervisors per Section 21151 (c) of the Public Resources Code.

/S/ Luis Osorio



Luis Osorio, Senior Planner
(831) 755-5177, osoriol@co.monterey.ca.us
August 8, 2011

cc: Front Counter Copy; Planning Commission; Water Resources Agency; Wanda Hickman, Planning Services Manager; Luis Osorio, Senior Planner; Ashley Nakamura, Land Use Technician; Carol Allen, Senior Secretary; Kehring, Doug and Carrie, Owners; Lombardo & Gilles, Agent; John Bridges, Attorney; Planning File PLN110098.

Attachments:

Exhibit A	Project Data Sheet
Exhibit B	Discussion/Response to Appeal
Exhibit C	Appeal
Exhibit D	Draft Resolution, including:
1.	Conditions of Approval
2.	Site Plan, Floor Plan and Elevations
Exhibit E	Vicinity Map
Exhibit F	Correspondence submitted by the Applicant

This report was reviewed by Wanda Hickman, Planning Services Manager *Wnh*

EXHIBIT A PROJECT DATA SHEET

Project Title: Kehring

Location:	2993 Cormorant, Pebble Beach	Primary APN:	007-262-016-000
Applicable Plan:	Greater Monterey Peninsula Area Plan	Coastal Zone:	NO
Permit Type:	Design Approval	Zoning:	MDR-B-6 D
Environmental Status:	Exempt per 15303(a)	Plan Designation:	Residential
Advisory Committee:	Del Monte Forest LUAC	Final Action Deadline (884)	05/28/2011

Project Site

Lot Size:	9,706 square feet	Coverage Allowed:	35%/3,397 square feet
		Coverage Proposed:	2,346 square feet
Existing Structures (SF):	1,710 square feet		
		Height Allowed:	27'
Proposed Structures (SF):	3,390 square feet	Height Proposed:	27;
Total SF:	3,390 square feet	Floor Area Ration Allowed:	35%/3,397 square feet
		Floor Area Ratio Proposed:	3,390 square feet

Resource Zones and Reports

Environmentally Sensitive Habitat:	N/A	Erosion Hazard Zone:	N/A
Biological Report #:	N/A	Soils Report #:	N/A
Forest Management Plan:	N/A		
Archaeological Sensitivity Zone:	High	Geologic Hazard Zone:	III
Archaeological Report #:	LIB110163	Geologic Report #:	N/A
Fire Hazard Zone:	Moderate	Traffic Report #	N/A

Other Information:

Water Source:	California American Water Company	Sewage Disposal method):	Sewer
Water Dist/Co:	Monterey Peninsula Water Management District	Sewer District Name:	Pebble Beach Community Services District
Fire District:	Pebble Beach CSD	Total Grading (cubic yds.)	5 cubic yards
Tree Removal:	No		

EXHIBIT B
DISCUSSION/ RESPONSE TO APPEAL

1. *The Appellant states that Condition Nos. 6 and 10 of the project approval contemplate possible future removal of Ms. Naskar's trees which the County has no legal authority to permit; that these conditions are inadequate to protect the trees in accordance with Policy GMP 3.5 of the 2010 General Plan which discourages removal of healthy pine trees; that the conditions only address short-term impacts and not long-term impacts including impacts from a proposed French drain system and water collection in the area of the roots of the trees.*

Response:

The referred conditions of approval do not contemplate the possible future removal of Ms. Naskar's trees. Condition No. 6 is a standard condition used by the Planning Department to monitor protected trees which may be affected during a construction project. The primary objective of this condition is to prevent damage through monitoring of construction activities around the trees and root systems and to prevent unnecessary removal of protected trees. Condition No. 10 is a non standard condition which contains special language requiring supervision by a certified arborist of the proposed removal of asphalt concrete currently covering the root system of a Monterey Pine tree located on Ms. Naskar's property and, further, that the material substituting the asphalt concrete be approved by a certified arborist; the intent of this requirement is to provide for improved health of the root system which may have suffered from its covering with asphalt concrete. The overall purpose of this special language is to protect the root system in the short-term (during construction) and to provide for improved health of the tree in the long-term (after construction).

2. *The Appellant states that there was a lack of proper public notice of the magnitude of the project and a lack of fair hearing before the Zoning Administrator for the following reasons:*
 - a. *The notice did not include reference to the drainage plan approved as a component of the project and the drainage plan was added at the last minute; and, information regarding the drainage plan was not provided to the appellant in time to allow for professional review and comment at the hearing*

Response: As a general practice, the review process for design approval applications does not require submittal of drainage plans. The drainage plan is a component of the project which does not require a discretionary permit and therefore does not need to be included in the project description in the public notice. The appellant is incorrect in that the drainage plan was not provided in time for their professional review. The applicant's representative requested to review the project file before the originally scheduled public hearing on May 31, 2011. Staff from the Planning Department met with the representative on May 20th, 2011 and reviewed the project plans and the *Phase 1 Historic Review* prepared for the application. The representative did not specifically request to review the drainage plan at that time. Additionally, on June 2, 2011 –after the originally scheduled public hearing was continued– staff offered to meet with the representative to again review the project, the staff report and specifically

mentioned the availability of the drainage plan for their review. Staff did not receive a response to the offer. The appellant's representative at the time chose to not review the drainage plan.

b. The size of the project was understated in the public notice.

Response: The project described in the public notice and in the staff report is a 2,459 square foot, two-story single family dwelling; this figure referred to the combined area of the first and second stories of the project and it was misstated. The actual size of the two floors combined is 2,895 square foot. The correction was stated by staff at the public hearing before the Zoning Administrator. The description of the rest of the components of the project was accurate in the public notice. The discrepancy is minor considering the overall size of the project and the approved project is substantially consistent with the description in the public notice. Therefore, the public notice was adequate.

c. The staking/flagging was inaccurate and inadequate.

Response: The appellant is correct that the flagging had an inaccuracy; however, it was minor. After the appeal was filed, the applicant's architect notified staff that the height of flagging (netting) of the project was approximately one foot lower than the actual height of the proposed project. This discrepancy was minor and could have not been noticed by staff during the review of the netting on site. The netting has been reset on site for review by the land use advisory committee and the Planning Commission. The corrected netting does not result in any inconsistency with applicable policies, does not change staff's conclusions and recommendations and does not require any project changes.

d. The required General Plan checklist presented by staff at the hearing was not in the project file when the file was requested for review by the Appellant's representative.

Response: The General Plan check list was included in the project file at the time of its review by the appellant's representative.

3. The Appellant states that there were no evidence cited to support the Zoning Administrator's approval and that the project conflicts with land use policies and regulations adopted to avoid or mitigate environmental effects.

Response:

Project consistency with applicable site development standards and general or area plan policies is determined by staff during the review of the project. Conditions of approval are recommended by staff to further assure consistency, which are reviewed, approved and/or modified by the appropriate reviewing authority during the public review process such was the case with this project. Staff did not find any inconsistencies with land use policies or regulations adopted to avoid or mitigate environmental effects.

4. *The Appellant states that the project does not “assure protection of the neighborhood character” as required by Sections 21.44.010/21.44.060 of the Zoning Ordinance; that the project is incompatible with adjacent uses, and has the potential to substantially degrade the existing visual character of the site and its surroundings. The appellant has also submitted a letter attached to the appeal (Exhibit C) prepared by architect Brian Congleton, AIA, which further addresses neighborhood character issues. In his letter Mr. Congleton acknowledges that: “the neighborhood is in transition from smaller one- and two-story residences built in the 1950’s-1970’s to larger two-story houses;” and that “while the Zoning Ordinance and the General Plan encourage and/or require compatibility of new projects with surroundings and adjacent uses and the protection of existing neighborhood character as well as scenic resources, neither document precisely defines these terms.” Mr. Congleton brings up other issues which are stated and responded to below.*

Response:

Section 21.44.010 of the Zoning Ordinance states the purpose of the Chapter 21.44 (Regulations for Design Control Zoning Districts or “D” Districts). Section 21.44.010 does require the protection of “neighborhood character” in areas covered by the “D” District. However, as Mr. Congleton recognizes, neither the General Plan nor the Zoning Ordinance define the term.

In general, neighborhood character can be defined in terms of architectural style, bulk/mass, height and the siting of structures within individual lots. The regulations of the General Plan, the Greater Monterey Peninsula or the “D” District do not require any specific architectural style for residential design in the area of the project site. This has allowed for the development of homes with eclectic designs. The bulk/mass, height and siting of structures in the area have been determined by 1) special setbacks covered under a “blanket variance” granted by the Board of Supervisors for certain areas of the Del Monte Forest in 1969 (File ZA-595); and 2) Site Development Standards of the Medium Density Residential Zoning District for the Del Monte Forest area. These standards require a 27-foot height limit, a 10-foot side yard setback for first stories and a special 20-foot side yard setback for second stories. These setbacks have resulted in the development of a “pattern” in the development of new residential dwellings in the neighborhood, whereby second story portions of the dwelling are located centrally on the lots with wide areas of open space and open view sheds between the taller portions of the structures. This pattern of development is the only discernable feature of the character of the neighborhood. The proposed project provides view sharing for the appellant’s parcel and is consistent with the pattern of development of other projects in the immediate vicinity.

Section 21.44.060 provides directives to the Authority considering projects in the “D” District as to considerations, conditions and standards to use and apply in reviewing such projects. The review of the project by staff and the action of the Zoning Administrator approving the project are consistent with the provisions of this section of the Ordinance.

Responses to Mr. Congleton's letter:

- a. *It appears there is a history of discussion, negotiation, and compromise about neighborhood character, quality of site surroundings, compatibility of development, views, drainage and tree protection during the County review process of new residences in the neighborhood.*

Response: In researching the files of the projects approved in the immediate vicinity, staff has not been able to find evidence of "a history of discussion, negotiation, and compromise about neighborhood character, quality of site surroundings, compatibility of development, views, drainage and tree protection during the County review process". Those projects have been approved as they have been found to be consistent with the applicable site development standards of the zoning district.

- b. *The initial development and recent project approvals in the area "revolve largely around compatibility, preservation and mutual sharing of open space views of the coast line and ocean."*

Response: There is no definition of "compatibility of development" or a requirement in the General Plan or Area Plan for residential design to be compatible with existing development. The design of the original homes in the neighborhood and in general in the Pebble Beach area, may have reflected styles and construction practices contemporary with the time of their construction. The design of newer homes has followed a more eclectic nature. There is no design compatibility amongst the design of newly built homes. In general the established lot pattern in Pebble Beach affords the greatest and better views of the coast line to the lots closest to it. The adoption of a special side yard setback of 20 feet for second stories has resulted in the maintenance of wide areas of open space between second stories and in the provision of viewshed corridors for homes not located directly in front of the coast line and the ocean. These corridors do provide for the sharing of open space views. In addition, the County does not have any provision or regulation requiring view protection or sharing. This is achieved by compliance with the development standards of the zoning district.

- c. *The history of recent project approvals in the neighborhood "show that the neighborhood and neighbors desire to preserve and balance view opportunities through sensitive building design and placement" and that the neighborhood's views have to date been substantially balanced and shared while still allowing newer developments of larger size, height and mass."*

Response: Several newer two-story homes have been approved in the last few years in the immediate vicinity of the subject site which have replaced older one-story homes. The record of those approvals does reflect some controversy around the issues of size and loss of views. In one case (File No. DA040181 – Colella) the Del Monte Forest Advisory Land Use Advisory Committee recommended denial based on a concern about the continuing construction of larger homes in the area. These projects, however, were approved by the Zoning Administrator based on their consistency with the General Plan, the Area Plan and the

development standards of the zoning district. Again, the balancing and sharing of views have been achieved through the adherence to those standards.

- d. *“The project as proposed is not compatible with and does not assure protection of the neighborhood character and will substantially degrade and have potentially significant adverse impacts on the visual character and quality of the site and its surroundings.”*

Response: Staff does not agree with the appellant. Again, neighborhood character can be defined in terms of architectural style, bulk/mass, height and the siting of structures within individual lots. There are no specific architectural design requirements in the area of the subject site and the architectural design of recently approved projects has been of a more eclectic nature. The only discernable feature of the character to the neighborhood is the special 20-foot side yard setback for second stories; bulk/mass and siting of structures is dictated by this setback which results in the location of bulk/mass in the central portion of the lots. In addition, the size of individual projects –which may affect or reduce the views from other residences– is proportionate to the size of the individual lots.

5. *The Appellant states that “the project is inconsistent with 2010 General Plan Policies LU-1.5 and GMP-1.4 and that “the project conflicts with 2010 General Plan Policy PS-3.2 because there is no evidence of long-term sustainable water supply.”*

Response:

Policy LU-1.5 of the General Plan does not apply to the subject project. This policy requires that “Land uses shall be designated to achieve compatibility with adjacent uses”. The policy refers to the designation of land uses in a given land use map/area plan and requires that adjacent land uses be compatible to each other. For example, a new or proposed residential land use designation would be incompatible adjacent to an industrial land use designation. The proposed project is a new residential unit located within a residential land use designation. The project is compatible with an existing residential zoning district.

Policy GMP-1.4 of the Greater Monterey Peninsula Area Plan requires that “Development proposals shall include compatible open space uses located between other developed areas in order to maintain a rural atmosphere and to protect scenic resources”. The area where the subject lot is located has been developed for years and the proposed project is merely the substitution of an existing single family dwelling. The project complies with the site development standards of the Zoning District which are designed to provide compatible open spaces between individual lots and to protect the visual integrity of the area by requiring increased visual corridors between structures. Therefore, the project does not conflict with the provisions of Policy GMP-1.4.

Policy PS-3.2 of the General Plan does not apply to the proposed project. This policy requires the development of an ordinance with specific criteria for proof of Long Term Water Supply and an Adequate Water Supply System for new development requiring a discretionary permit. This policy must be interpreted in unison with the provisions of Policy PS-3.1 which requires that projects subject to discretionary

permits must prove that there is a long-term sustainable water supply, with a number of exemptions including development of the first single family dwelling and non-habitable structures on existing lots of record. This project falls under this exemption for the first single family dwelling on a lot because it consists of the demolition of an existing single family dwelling on an existing lot of record and the construction of a substituting single family dwelling. There would remain only one dwelling on the lot following completion of the project.

6. *The Appellant cites three Court cases to argue that the approved project is not exempt from environmental review under CEQA. The Appellant argues that special circumstances exist in this case that require environmental review. The appellant also refers to the findings made by the Zoning Administrator under File ZA-595 which granted a variance allowing special setbacks for development in certain areas of the Del Monte Forest and, on that basis, contends that the "property and this neighborhood is per se an unusual circumstance as determined by the County Zoning Administrator."*

Response:

Staff does not agree that the imposition of conditions of approval with regard to tree protection implies that the project would result in significant environmental impacts requiring mitigations. The subject tree is a Monterey Pine. Policy GMP-3.5 of the 2010 County General Plan discourages the removal of healthy Monterey pines. The intent of the conditions is to implement the provisions of Policy GMP-3.5 by protecting the root system of the tree both during construction and in the long term and to prevent damage to that could result in the need to remove the tree. The conditions are added to implement this general plan policy, not as CEQA "mitigation."

The findings made by the Zoning Administrator under File ZA-595 supported the approval of a "blanket variance" which allows special development setbacks for properties located in defined areas of the Del Monte Forest. These are variance findings which are distinct from CEQA environmental review. The old variance findings do not create special circumstances that would make development of the proposed project not exempt from environmental review under the CEQA Guidelines.

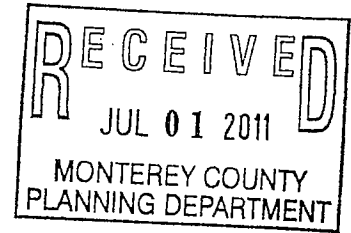
EXHIBIT C

APPEAL



NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 21 (Zoning)



No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before * (10 days after written notice of the decision has been mailed to the applicant).
Date of decision * .

1. Please give the following information:

- a) Your name Angela Naskar (by John S. Bridges, attorney)
- b) Address Box 791 Monterey CA 93942
- c) Phone Number 831 373 1241

2. Indicate your interest in the decision by checking the appropriate box:

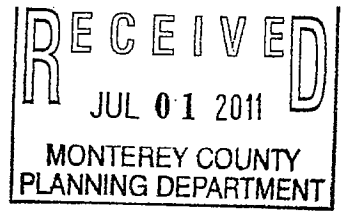
- Applicant
- Neighbor
- Other (please state) attorney for neighbor

3. If you are not the applicant, please give the applicant's name:
Kehring

4. What is the file number of the application that is the subject to this appeal? PLN 110098

Indicate the file number of the application that is the subject of the appeal and the decision making body (i.e., Zoning Administrator, Chief of Planning Services, Subdivision Committee).

- a) File Number PLN 110098
- b) Decision Making Body Zoning Administrator



5. What is the nature of your appeal?

a) Are you appealing the approval or the denial of an application? (Check appropriate box)

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheets if necessary).

Conditions 6 and 10
see attached

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for your appeal:

There was a lack of fair or impartial hearing; or

The findings or decision or conditions are not supported by the evidence; or

The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Planning Commission will *not* accept an application for appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary).

see attached

7. As part of the application approval or denial process, findings were made by the decision making body (Director of Planning and Building Inspection, Zoning Administrator, or Minor Subdivision Committee). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary).

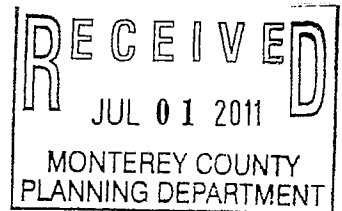
No findings were made
see attached

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Planning and Building Inspection Department will provide you with a mailing list.

9. Your appeal is accepted when the Secretary of the Planning Commission accepts the appeal as complete on its face, receives the filing fee \$ 4,903.64 and stamped addressed envelopes, and places the appeal for public hearing on the Planning Commission agenda.

APPELLANT SIGNATURE [Signature] DATE 6-30-11

ACCEPTED _____ DATE _____
SECRETARY OF THE PLANNING COMMISSION



BASIS FOR APPEAL (PLN110098)

5.b/6 - Project conditions 6 and 10 are inadequate to protect the several significant Monterey pine trees on Ms. Naskar's property (which are near the common property line). Both conditions contemplate possible future removal of Ms. Naskar's trees which the County has no legal authority to permit. The conditions are also inadequate to ensure protection of the trees in accordance with 2010 General Policy GMP – 3.5 which discourages the removal of healthy Monterey pine trees in the Greater Monterey Peninsula Planning Area. Moreover, conditions 6 and 10 only address short-term physical construction impacts and do not address long-term (i.e., stress related to the development) impacts to the trees on Ms. Naskar's property including, without limitation, significant impacts of the proposed French drain system trenching and water collection in conflict with important buttressing/anchoring roots of the Naskar trees. All potential impacts to Ms. Naskar's trees must be assessed and mitigated to ensure they will be protected and will not need to be harmed or removed in the future.

6/7 – There was a lack of proper public notice of the magnitude of the project and a lack of fair hearing before the Zoning Administrator. The project notice did not include reference to the drainage plan that was approved as a component part (added at the last minute) of the overall design. Information regarding said drainage plan was not provided to appellant in time to allow for professional review and comment at the hearing. The size of the proposed project was understated in the public notice and the staking/netting of the project was inaccurate and inadequate which prevented the public from appreciating the overall size and impact of the project.¹ In addition, the required General Plan checklist for the project presented by staff at the ZA hearing was not in the project file when it was made available for review by appellant's attorney.

No written findings were made nor evidence cited to support the Zoning Administrator's approval and the project conflicts with applicable land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect. The project does not "assure protection of the neighborhood character" as required by Section 21.44.010/21.44.060. The project is inconsistent with 2010 General Plan Policies LU-1.5 and GMP-1.4. The project is inconsistent with the neighborhood character, incompatible with adjacent uses, and has the potential to substantially degrade the existing visual character of the site and its surroundings. (See attached substantial evidence/opinion from architect Brian Congleton.) The project conflicts with 2010 General Plan Policy PS-3.2 because this development, which requires a discretionary permit, does not include evidence of long-term sustainable water supply. The imposition of Conditions 6 and 10 with regard to tree protection (even though inadequate as discussed above) is tacit acknowledgement by the County that the project involves potentially significant environmental impacts that require mitigation. Mitigations cannot be used to justify a categorical exemption under CEQA. In Lewis v. 17th District Agricultural Association (1985) 165 Cal.App.3d 823, 830, the court noted:

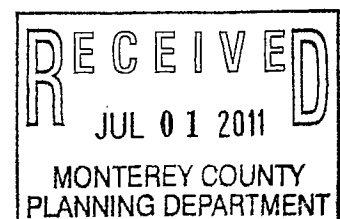
¹ Because proper identification of building size, location, and massing are critically important in terms of assuring protection of neighborhood character and compatibility with adjacent uses, the project should be restaked/flagged at least 20 days prior to the appeal hearing and said staking/flagging should be expressly verified as accurate and adequate by planning staff.

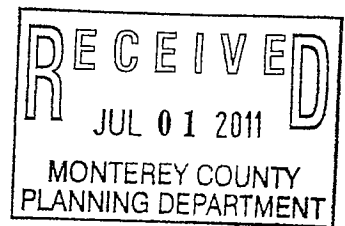
It is the possibility of a significant effect on the environment which is at issue, not a determination of the actual effect, which would be the subject of a negative declaration or an EIR. Appellants cannot escape the law by taking a minor step in mitigation and then find themselves exempt from the exception to the exemption. The very fact that the District Association took steps in mitigation makes it manifest there was a possibility of a significant effect. If steps in mitigation lessen the “adverse change” such steps may qualify the District Association to file a negative declaration, but not to find itself outside the law (emphasis in original).

As noted in Wildlife Alive v. Chickering (1976) 18 Cal.3d 190, 204, the California Supreme Court has held that only activities that do not have a significant effect on the environment may be exempt and that where a reasonable possibility exists that an activity will have a significant effect on the environment a categorical exemption is precluded. “It follows that where there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.” (Chickering at 206.)

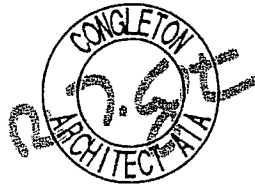
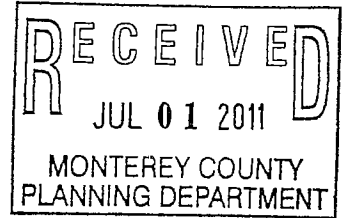
The CEQA Guidelines also provide for an exception to categorical exemption where there is a reasonable possibility of significant affect on the environment due to unusual circumstances (CEQA Guidelines § 15300.2(c)). The legal test for whether unusual circumstances exist is “whether the circumstances of a particular project (i) differ from the general circumstances of the projects covered by a particular categorical exemption, and (ii) those circumstances create an environmental risk that does not exist for the general class of exempt projects (Azusa Land Reclamation Company v. San Gabriel Basin Water Master (1997) 52 Cal.App.4th 1165, 1207). Unusual circumstances exist in this case. Proximity of a residence to the threat of a potentially significant environmental impact is itself an unusual circumstance as a matter of law (Lewis, supra at 831). Also, the property and this neighborhood is per se an unusual circumstance as determined by the County Zoning Administrator in Resolution ZA-595 which found to exist, “special circumstances applicable to subject property, including size, shape, topography, location, or surroundings.” The ZA-595 modified setbacks are directly related to several of the potential project impacts that must be assessed in a CEQA review.

We also incorporate by reference the administrative record and issues presented to the Zoning Administrator by Ms. Naskar and/or her attorney, including, without limitation, the data/material related to potential drainage impacts and hazardous materials impacts for which adequate mitigations have not been defined.





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)
6.		PD011 – TREE AND ROOT PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, 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, approved by a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by a certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (RMA - Planning Department)	Submit evidence of tree protection to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and/or building permits	
			Submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.	Owner/ Applicant/ Arborist	During Construction	
			Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection	
10.		PDSP001 – COUNTY APPROVED CERTIFIED ARBORIST SUPERVISION Roots of neighboring trees encroaching onto the project site shall be protected from damage from construction equipment and/or activity. Removal of AC patio surfaces located over the roots of the pine tree located just over the property boundary on the adjacent property to the south, and all construction activity in the critical root zone and/or canopy drip lines (whichever is greater) of this tree, shall be conducted under the supervision of a County-approved certified Arborist. If there is a potential for damage of the roots, all work must stop in the critical root zone and/or canopy drip lines (whichever is greater), and a report, with mitigation measures shall be prepared by a County approved certified Arborist, and submitted to the RMA – Planning Department for review & approval. Additionally, the required landscaping plan shall include the substitution of materials in the areas the removed AC patio surface appropriate/necessary to protect the root system of the subject tree. The substituting landscaping material shall be reviewed and approved by a certified arborist. (RMA – Planning Department)	Submit evidence that a County-approved certified Arborist has been contracted to provide supervision and recommendations to ensure the health of the neighboring trees/roots while construction or removal of pavement in the critical root zone and/or canopy drip line (whichever is greater) of the subject tree.	Owner/ Applicant/ Arborist	Prior to the issuance of grading and/or building permits	
			Submit evidence of review of the landscaping plan by a County-approved certified arborist.	Owner/ Applicant/	Prior to the issuance of grading and/or building permits	
			Submit photos of the trees and roots, and a letter prepared by the contracted County-approved certified Arborist to the RMA – Planning Department for review and approval. The letter shall report on the health of the trees/roots on the property and state whether the tree and root protection measures have been successful, or if follow-up remediation or additional permits are required.	Owner/ Applicant/ Arborist	Prior to issuance of a final building permit	



June 30, 2011

John Bridges, Esq.
FENTON & KELLER ATTORNEYS
Post Office Box 1701
Monterey, California 93942-1701

RE: Angela Naskar, 971 Customs Road, Client
Project Proposal Review, Kehring Residence, 2993 Cormorant Road, Pebble Beach
APN 007-262-016-000
PLN 11-0098 (Monterey County Planning)

Dear Mr. Bridges:

At the request of you and your client, Angela Naskar, I visited the property at 2993 Cormorant Road in Pebble Beach and the surrounding neighborhood on June 23, 2011 to assess the impact of a proposed new residence on the neighborhood character and site surroundings. I reviewed the project plans, and studied the ridge poles, existing and proposed massing of the new residence, the relationship of the proposed structure to surrounding properties, the existing neighborhood character, existing views in and around the area, and tree and drainage conditions. I also reviewed a history of development projects in the neighborhood in recent years, to understand the neighborhood character and surrounding site relationships from the perspective of the residents.

Background

The proposed project is for demolition of an existing one-story residence at 2993 Cormorant Road, and construction of a new two-story, 2,459 square foot house with attached two-car garage. The site is a corner lot of 9,706 square feet, relatively level at an elevation close to sea level. There are existing views from the subject property over and between houses to the west, south, and north, across the golf course to the ocean. Because of the one-story existing residence, these views are currently variably shared with several neighboring properties to the east.

The neighborhood is generally in transition from smaller one- and two-story residences built in the 1950's-1970' to larger two-story houses now being built. As recently as the 1990's, replacement houses were often one-story. The first large two-story houses were developed in the area within the last ten years. There appears to be a history of discussion, negotiation, and compromise, pertaining to protection of neighborhood character, quality of site surroundings, compatibility of development, views, drainage issues, and tree protection. These same issues are present with this project.

Neighborhood Character

While the zoning ordinance and general plan both encourage and/or require compatibility of new projects with site surroundings and adjacent uses and the protection of existing neighborhood character as well as scenic resources, neither document precisely defines these terms (e.g., neighborhood character). As noted above, the physical character of the buildings in the neighborhood surrounding the Kehring project is transitional from smaller one-story to larger two-story buildings. The character of the new residences, however, is also directly the result of neighborhood discussion, negotiation, and compromise. The location, size, and orientation of these new residences is defined by these discussions during the County review process.

Shared open space views are a very significant element of this neighborhood's character. The initial development, and more recent new developments, of this area revolve largely around compatibility, preservation and mutual sharing of open space views of the coastline and ocean. The history of recent approvals and negotiations involving those approvals show that the neighborhood and neighbors desire to preserve and balance view opportunities through sensitive building design and placement. The new houses have been massed and placed in an offset manner allowing those behind them preservation of some of their primary views. Because of successful efforts between neighbors in the context of County review of development applications, the neighborhood's views have to date been substantially balanced and shared while still allowing newer developments of larger size, height, and mass. This result is an important aspect of this neighborhood's character.

Conclusion

After review of the proposed Kehring project plans and ridgepoles in light of the above described neighborhood context, site surroundings, and character, it is my opinion, as an architect with over twenty five years of experience on the Monterey Peninsula, including Pebble Beach, that the project as proposed is not compatible with and does not assure protection of the neighborhood character and will substantially degrade and have potentially significant adverse impacts on the visual character and quality of the site and its surroundings. These impacts can be mitigated by revising the design to offset open space view impacts/opportunities to provide neighborhood balance and view sharing in keeping with the neighborhood character. Prior to project approval, alternate designs should be pursued which would allow the Kehrings to create a reasonable design while respecting the neighborhood character.

Sincerely,



Brian T. Congleton AIA

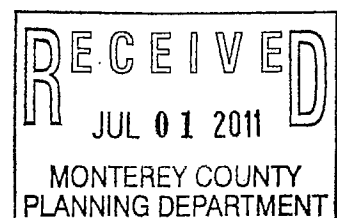


EXHIBIT D

DRAFT RESOLUTION

**EXHIBIT D
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

Kehring, Doug and Carrie PLN110098

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission:

- 1) Categorically exempting PLN110098 from environmental review, per Section 15303(a) of the CEQA Guidelines;
- 2) Denying the appeal and upholding the Zoning Administrator decision to approve a Design Approval to allow the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing maximum six feet in height, and relocation of existing driveway on Cormorant Road to Customs Road. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing.

[PLN110098, Doug and Carrie Kehring, 2993 Cormorant Road, Pebble Beach, Greater Monterey Area Plan (APN: 007-262-016-000)]

In the matter of Doug and Carrie Kehring:

WHEREAS: Doug and Carrie Kehring submitted an application for a Design Approval to allow the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing to a maximum of six feet in height, and relocation of the existing driveway on Cormorant Road to Customs Road. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing. The property is located at 2993 Cormorant Road, Pebble Beach (Assessor's Parcel Number 007-262-016-000), Greater Monterey Peninsula Area, Monterey Peninsula Country Club.

WHEREAS: The application for the Design Approval was heard by the Zoning Administrator on June 9, 2011, and

WHEREAS: Said Zoning Administrator on June 9, 2005, considered the project and all public testimony and after discussion, approved the Design Approval PLN110098 subject to ten conditions of approval.

WHEREAS: Angela Naskar filed an appeal on July 1, 2011 of the Zoning Administrator's approval of the Design Approval (PLN110098) for the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing to a maximum of six feet in height, and relocation of the existing driveway on Cormorant Road to Customs Road. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing.

WHEREAS: The Planning Commission on August 31, 2011 held a public hearing on the appeal.

NOW, THEREFORE, the Planning Commission, having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Greater Monterey Area Plan;
- Monterey County Zoning Ordinance Title 21;

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 2993 Cormorant Road, Pebble Beach (Assessor's Parcel Number 007-262-016-000, Greater Monterey Area Plan. The parcel is zoned MDR B-6 D (Medium Density Residential, with B-6 and Design Control overlays), which allows the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with a 495 square foot attached garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing maximum six feet in height, and relocation of existing driveway on Cormorant Road to Customs Road.
- c) The site of the proposed project is located within a residential land use designation under the General Plan.
- d) The proposed project is consistent with all the Site Development

Standards of the MDR Zoning District for development in the Del Monte Forest area (Chapter 21.12.070 D of the Zoning Ordinance).

- e) The proposed project is consistent with the intent and the provisions of the Design Control Zoning District (Chapter 21.44 of the Zoning Ordinance). The project as designed does not affect the public viewshed and is consistent with neighborhood character. The size and configuration of the project as well as the materials and colors are appropriate for the area.
- f) The proposed project is consistent with applicable policies of the 2010 General Plan including Policies PS-3.1, PS-3.2 and GMP-1.4.
- g) The project planner conducted a site inspection on April 1, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- h) The appeal is consistent with Section 21.80 Appeals of the Title 21 Zoning Ordinance. The appeal was submitted on July 1, 2011, which is within ten day-day period from the Notice of Approval of the project required by the Ordinance.
- i) The project as approved by the Zoning Administrator on June 9, 2011 is consistent with all policies addressed in the appeal.
- j) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110098.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the RMA - Planning Department. There has been no indication during the review of the application that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) The proposed project is the construction of a two-story single family dwelling in an existing legal lot of record already developed with a single family dwelling and designated for such use. All utilities are available for the proposed project.
 - c) County database indicated that the residence proposed to be demolished was greater than fifty years old. Due to the age of the structure and the possibility of the structure having any historical significance, staff required a Phase I Historical Report to be prepared by a County approved Historian. The report was submitted and revealed that the existing residence held no historical significance.

- *“Phase I Historic Review” (LIB110228) prepared by Kent L. Seavey, Pacific Grove, CA, April 10, 2011.*

The County mapping database also identified the project parcel as being in a “high” archaeological sensitivity zone. Due to the archaeological sensitivity of the project area, staff required a Preliminary Archaeological Reconnaissance to be prepared by a County approved Archaeologist. The report was submitted and stated that no archaeological resources or evidence of resources were discovered on the subject parcel.

- "Preliminary Archaeological Reconnaissance" (LIB110163)
prepared by Mary Doane, B.A., and Gary S. Breschini, Ph.D., RPA.
County staff independently reviewed these reports and concurs with
their conclusions.

- d) Staff conducted a site inspection on April 1, 2011 to verify that the site is suitable for this use.
- e) The proposed project was considered by the Del Monte Forest Land Use Advisory Committee (LUAC) on August 18, 2011. The LUAC recommended approval of the project by a unanimous vote.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110098.

3. **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 the Monterey County Planning Department. The Planning Department 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.
 - b) Necessary public facilities are available and will be provided. The proposed single family dwelling will connect to public sewer through the Pebble Beach Community Services District. The water source proposed and existing is provided by the California American Water Company through Monterey Peninsula Water District.
 - c) Preceding findings and supporting evidence for PLN110098.

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.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on April 1, 2011 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110098.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15303 (a), categorically exempts one single family residence in a residential zone.
- b) The project consists of demolition of one existing single family residence and construction of a substituting single family residence.
- c) No adverse environmental effects were identified during staff review of the development application including multiple visits to the site.
- d) See preceding and following findings and supporting evidence.

6. **FINDING:** **WATER SUPPLY** – The project has an adequate long-term water supply and manages development in the area as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

- EVIDENCE:** a) The proposed project consists of the demolition of an existing single family dwelling and the construction of a substituting single family dwelling for which an identified source of water already exists.
- b) The subject parcel has an existing water connection to Cal-Am provided by Monterey Peninsula Water Management District. Under standard procedures for project within the service area of the District, the applicant is required to submit a “Water Release Form” to identify water consumption of the proposed project. The form must be reviewed and approved by the District demonstrating the availability of water for the project, before a building permit is issued.
- c) The project is consistent with the provisions of Policy PS-3.1 because it is the single family dwelling on a legal lot of record.

7. **FINDING:** **APPEALABILITY** – The CEQA determination is appealable to the Board of Supervisors.

EVIDENCE: Public Resources Code section 21151(c).

8. **FINDING:** **APPEAL:** The Planning Commission has considered the all the issues raised in the appeal and responds as follows:

- EVIDENCE:** 1. *The Appellant states that Condition Nos. 6 and 10 of the project approval contemplate possible future removal of Ms. Naskar’s trees which the County has no legal authority to permit; that these conditions are inadequate to protect the trees in accordance with Policy GMP 3.5 of the 2010 General Plan which discourages removal of healthy pine trees; that the conditions only address short-term impacts and not long-term impacts including impacts from a proposed French drain system and water collection in the area of the roots of the trees.*

Response:

The referred conditions of approval do not contemplate the possible future removal of Ms. Naskar’s trees. Condition No. 6 is a standard condition used by the Planning Department to monitor protected trees which may be affected during a construction project. The primary objective of this condition is to prevent damage through monitoring of construction activities around the trees and root systems and to prevent unnecessary removal of

protected trees. This Condition No. 10 is a non standard condition which contains special language requiring supervision by a certified arborist of the proposed removal of asphalt concrete currently covering the root system of a Monterey Pine tree located on Ms. Naskar's property and, further, that the material substituting the asphalt concrete be approved by a certified arborist; the intent of this requirement is to provide for improved health of the root system which may have suffered from its covering with asphalt concrete. The overall purpose of this special language is to protect the root system in the short-term (during construction) and to provide for improved health of the tree in the long-term (after construction).

2. *The Appellant states that there was a lack of proper public notice of the magnitude of the project and a lack of fair hearing before the Zoning Administrator for the following reasons:*

a. *The notice did not include reference to the drainage plan approved as a component of the project and the drainage plan was added at the last minute; and, information regarding the drainage plan was not provided to the appellant in time to allow for professional review and comment at the hearing*

Response: As a general practice, the review process for design approval applications does not require submittal of drainage plans. The drainage plan is a component of the project which does not require a discretionary permit and therefore does not need to be included in the project description in the public notice. The appellant is incorrect in that the drainage plan was not provided in time for their professional review. The applicant's representative requested to review the project file before the originally scheduled public hearing on May 31, 2011. Staff from the Planning Department met with the representative on May 20th, 2011 and reviewed the project plans and the *Phase 1 Historic Review* prepared for the application. The representative did not specifically request to review the drainage plan at that time. Additionally, on June 2, 2011 –after the originally scheduled public hearing was continued– staff offered to meet with the representative to again review the project, the staff report and specifically mentioned the availability of the drainage plan for their review. Staff did not receive a response to the offer. The appellant's representative at the time chose to not review the drainage plan.

b. *The size of the project was understated in the public notice.*

Response: The project described in the public notice and in the staff report is a 2,459 square foot, two-story single family

dwelling; this figured referred to the combined area of the first and second stories of the project and it was misstated. The actual size of the two floors combined is 2,895 square foot. The correction was stated by staff at the public hearing before the Zoning Administrator. The description of the rest of the components of the project was accurate in the public notice. The discrepancy is minor considering the overall size of the project and the approved project is substantially consistent with the description in the public notice. Therefore, the public notice was adequate.

- c. *The staking/flagging was inaccurate and inadequate.*

Response: The appellant is correct that the flagging had an inaccuracy; however, it was minor. After the appeal was filed, the applicant's architect notified staff that the height of flagging (netting) of the project was approximately one foot lower than the actual height of the proposed project. This discrepancy was minor and could have not been noticed by staff during the review of the netting on site. The netting has been reset on site for review by the land use advisory committee and the Planning Commission. The corrected netting does not result in any inconsistency with applicable policies, does not change staff's conclusions and recommendations and does not require any project changes.

- d. *The required General Plan checklist presented by staff at the hearing was not in the project file when the file was requested for review by the Appellant's representative.*

Response: The General Plan check list was included in the project file at the time of its review by the appellant's representative.

3. *The Appellant states that there were no evidence cited to support the Zoning Administrator's approval and that the project conflicts with land use policies and regulations adopted to avoid or mitigate environmental effects.*

Response:

Project consistency with applicable site development standards and general or area plan policies is determined by staff during the review of the project. Conditions of approval are recommended by staff to further assure consistency, which are reviewed, approved and/or modified by the appropriate reviewing authority during the public review process such was the case with this project. Staff did not find any inconsistencies with land use policies or regulations adopted to avoid or mitigate environmental effects.

4. *The Appellant states that the project does not “assure protection of the neighborhood character” as required by Sections 21.44.010/21.44.060 of the Zoning Ordinance; that the project is incompatible with adjacent uses, and has the potential to substantially degrade the existing visual character of the site and its surroundings. The appellant has also submitted a letter attached to the appeal (Exhibit C) prepared by architect Brian Congleton, AIA, which further addresses neighborhood character issues. In his letter Mr. Congleton acknowledges that: “the neighborhood is in transition from smaller one- and two-story residences built in the 1950’s-1970’s to larger two-story houses;” and that “while the Zoning Ordinance and the General Plan encourage and/or require compatibility of new projects with surroundings and adjacent uses and the protection of existing neighborhood character as well as scenic resources, neither document precisely defines these terms.” Mr. Congleton brings up other issues which are stated and responded to below.*

Response:

Section 21.44.010 of the Zoning Ordinance states the purpose of the Chapter 21.44 (Regulations for Design Control Zoning Districts or “D” Districts). Section 21.44.010 does require the protection of “neighborhood character” in areas covered by the “D” District. However, as Mr. Congleton recognizes, neither the General Plan nor the Zoning Ordinance define the term.

In general, neighborhood character can be defined in terms of architectural style, bulk/mass, height and the siting of structures within individual lots. The regulations of the General Plan, the Greater Monterey Peninsula or the “D” District do not require any specific architectural style for residential design in the area of the project site. This has allowed for the development of homes with eclectic designs. The bulk/mass, height and siting of structures in the area have been determined by 1) special setbacks covered under a “blanket variance” granted by the Board of Supervisors for certain areas of the Del Monte Forest in 1969 (File ZA-595); and 2) Site Development Standards of the Medium Density Residential Zoning District for the Del Monte Forest area. These standards require a 27-foot height limit, a 10-foot side yard setback for first stories and a special 20-foot side yard setback for second stories. These setbacks have resulted in the development of a “pattern” in the development of new residential dwellings in the neighborhood, whereby second story portions of the dwelling are located centrally on the lots with wide areas of open space and open view sheds between the taller portions of the structures. This pattern of development is the only discernable feature of the character of the neighborhood. The proposed project provides view sharing for the appellant’s parcel and is consistent with the pattern of development of other projects in the immediate vicinity.

Section 21.44.060 provides directives to the Authority considering projects in the "D" District as to considerations, conditions and standards to use and apply in reviewing such projects. The review of the project by staff and the action of the Zoning Administrator approving the project are consistent with the provisions of this section of the Ordinance.

Responses to Mr. Congleton's letter:

- a. *It appears there is a history of discussion, negotiation, and compromise about neighborhood character, quality of site surroundings, compatibility of development, views, drainage and tree protection during the County review process of new residences in the neighborhood.*

Response: In researching the files of the projects approved in the immediate vicinity, staff has not been able to find evidence of "a history of discussion, negotiation, and compromise about neighborhood character, quality of site surroundings, compatibility of development, views, drainage and tree protection during the County review process". Those projects have been approved as they have been found to be consistent with the applicable site development standards of the zoning district.

- b. *The initial development and recent project approvals in the area "revolve largely around compatibility, preservation and mutual sharing of open space views of the coast line and ocean."*

Response: There is no definition of "compatibility of development" or a requirement in the General Plan or Area Plan for residential design to be compatible with existing development. The design of the original homes in the neighborhood and in general in the Pebble Beach area, may have reflected styles and construction practices contemporary with the time of their construction. The design of newer homes has followed a more eclectic nature. There is no design compatibility amongst the design of newly built homes. In general the established lot pattern in Pebble Beach affords the greatest and better views of the coast line to the lots closest to it. The adoption of a special side yard setback of 20 feet for second stories has resulted in the maintenance of wide areas of open space between second stories and in the provision of viewshed corridors for homes not located directly in front of the coast line and the ocean. These corridors do provide for the sharing of open space views. In addition, the County does not have any provision or regulation requiring view protection or

sharing. This is achieved by compliance with the development standards of the zoning district.

- c. *The history of recent project approvals in the neighborhood “show that the neighborhood and neighbors desire to preserve and balance view opportunities through sensitive building design and placement” and that the neighborhood’s views have to date been substantially balanced and shared while still allowing newer developments of larger size, height and mass.”*

Response: Several newer two-story homes have been approved in the last few years in the immediate vicinity of the subject site which have replaced older one-story homes. The record of those approvals does reflect some controversy around the issues of size and loss of views. In one case (File No. DA040181 – Colella) the Del Monte Forest Advisory Land Use Advisory Committee recommended denial based on a concern about the continuing construction of larger homes in the area. These projects, however, were approved by the Zoning Administrator based on their consistency with the General Plan, the Area Plan and the development standards of the zoning district. Again, the balancing and sharing of views have been achieved through the adherence to those standards.

- d. *“The project as proposed is not compatible with and does not assure protection of the neighborhood character and will substantially degrade and have potentially significant adverse impacts on the visual character and quality of the site and its surroundings.”*

Response: Staff does not agree with the appellant. Again, neighborhood character can be defined in terms of architectural style, bulk/mass, height and the siting of structures within individual lots. There are no specific architectural design requirements in the area of the subject site and the architectural design of recently approved projects has been of a more eclectic nature. The only discernable feature of the character to the neighborhood is the special 20-foot side yard setback for second stories; bulk/mass and siting of structures is dictated by this setback which results in the location of bulk/mass in the central portion of the lots. In addition, the size of individual projects –which may affect or reduce the views from other residences– is proportionate to the size of the individual lots.

5. *The Appellant states that “the project is inconsistent with 2010 General Plan Policies LU-1.5 and GMP-1.4 and that “the project conflicts with 2010 General Plan Policy PS-3.2 because there is no evidence of long-term sustainable water supply.”*

Response:

Policy LU-1.5 of the General Plan does not apply to the subject project. This policy requires that “Land uses shall be designated to achieve compatibility with adjacent uses”. The policy refers to the designation of land uses in a given land use map/area plan and requires that adjacent land uses be compatible to each other. For example, a new or proposed residential land use designation would be incompatible adjacent to an industrial land use designation. The proposed project is a new residential unit located within a residential land use designation. The project is compatible with an existing residential zoning district.

Policy GMP-1.4 of the Greater Monterey Peninsula Area Plan requires that “Development proposals shall include compatible open space uses located between other developed areas in order to maintain a rural atmosphere and to protect scenic resources”. The area where the subject lot is located has been developed for years and the proposed project is merely the substitution of an existing single family dwelling. The project complies with the site development standards of the Zoning District which are designed to provide compatible open spaces between individual lots and to protect the visual integrity of the area by requiring increased visual corridors between structures. Therefore, the project does not conflict with the provisions of Policy GMP-1.4.

Policy PS-3.2 of the General Plan does not apply to the proposed project. This policy requires the development of an ordinance with specific criteria for proof of Long Term Water Supply and an Adequate Water Supply System for new development requiring a discretionary permit. This policy must be interpreted in unison with the provisions of Policy PS-3.1 which requires that projects subject to discretionary permits must prove that there is a long-term sustainable water supply, with a number of exemptions including development of the first single family dwelling and non-habitable structures on existing lots of record. This project falls under this exemption for the first single family dwelling on a lot because it consists of the demolition of an existing single family dwelling on an existing lot of record and the construction of a substituting single family dwelling. There would remain only one dwelling on the lot following completion of the project.

6. *The Appellant cites three Court cases to argue that the approved project is not exempt from environmental review under CEQA. The Appellant argues that special circumstances exist in this case that require environmental review. The appellant also refers to the findings made by the Zoning Administrator under File ZA-595 which granted a variance allowing special setbacks for development in certain areas of the Del Monte Forest and, on that basis, contends that the “property and this neighborhood is per se*

an unusual circumstance as determined by the County Zoning Administrator.”

Response:

Staff does not agree that the imposition of conditions of approval with regard to tree protection implies that the project would result in significant environmental impacts requiring mitigations. The subject tree is a Monterey Pine. Policy GMP-3.4 of the 2010 County General Plan discourages the removal of healthy Monterey pines. The intent of the conditions is to implement the provisions of Policy GMP-3.4 by protecting the root system of the tree both during construction and in the long term and to prevent damage to that could result in the need to remove the tree. The conditions are added to implement this general plan policy, not as CEQA “mitigation.”

The findings made by the Zoning Administrator under File ZA-595 supported the approval of a “blanket variance” which allows special development setbacks for properties located in defined areas of the Del Monte Forest. These are variance findings which are distinct from CEQA environmental review. The old variance findings do not create special circumstances that would make development of the proposed project not exempt from environmental review under the CEQA Guidelines.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- A. Categorically Exempt PLN110098, per Section 15303 (a) of the CEQA Guidelines.
- B. Deny the appeal and uphold the Zoning Administrator's decision to approve a Design Approval to allow the demolition of an existing 1,740 square foot single family dwelling and attached garage, and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot attached garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing maximum six feet in height, and relocation of existing driveway on Cormorant Road to Customs Road. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 31st day of August, 2011 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON _____

THE DECISION OF THE PLANNING COMMISSION SHALL BE FINAL AND MAY NOT BE APPEALED.

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 Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 03-28-2011

EXHIBIT 1 TO EXHIBIT D

CONDITIONS OF APPROVAL

**Monterey County Resource Management Agency
Planning Department
Condition Compliance Plan**

Project Name: KEHRING

File No: PLN11009

APNs: 007-262-016-000

Approved by: Planning Commission

Date: August 31, 2011

**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)
RMA – Planning Department						
1.		<p>PD001 - SPECIFIC USES ONLY This Design Approval PLN110098 allows Design Approval to allow the demolition of an existing 1,740 square foot single family dwelling and the construction of a new 2,895 square foot two-story single family dwelling with an attached 495 square foot garage, a 1,802 square foot main level, a 49 square foot entry porch, a 1,093 square foot second level with 588 square feet of second story decks, perimeter fencing maximum six feet in height and relocation of the existing driveway on Cormorant Road to Customs Raod. Materials and colors consist of: grey wood shingle, stone siding, white trim, white windows/doors, and natural wood shingle roofing. The property is located at 2993 Cormorant, Pebble Beach (Assessor's Parcel Number 007-262-016-000), Greater Monterey Area 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 the RMA - Planning Department. 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</p>	<p>Adhere to conditions and uses specified in the permit.</p>	<p>Owner/ Applicant</p>	<p>Ongoing unless otherwise stated</p>	

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)
		<p>construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>				
2.		<p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT 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 RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Register 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. (RMA - Planning Department)</p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning 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.</p>	<p>Owner/ Applicant/ Archaeologist</p>	<p>Ongoing</p>	
3.		<p>PD012(F) - LANDSCAPE PLAN AND MAINTENANCE (SINGLE FAMILY DWELLING ONLY) The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for</p>	<p>Submit landscape plans and contractor's estimate to the RMA - Planning Department for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey as applicable.</p>	<p>Owner/ Applicant/ Licensed Landscape Contractor/ Licensed Landscape Architect</p>	<p>Prior to issuance of Building Permits</p>	

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)
		<p>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 size of the proposed landscaping materials and shall include an irrigation plan. The plan 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 RMA - Planning 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. (RMA - Planning Department)</p>	<p>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 RMA - Planning Department.</p> <p>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.</p>	<p>Owner/ Applicant/ Licensed Landscape Contractor/ Licensed Landscape Architect</p> <p>Owner/ Applicant</p>	<p>Prior to Occupancy</p> <p>Ongoing</p>	
4.		<p>PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, down-lit, 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 lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)</p>	<p>Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans. The lighting shall be installed and maintained in accordance with the approved plan.</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>Prior to the issuance of building permits.</p> <p>Prior to Occupancy / Ongoing</p>	
5.		<p>PD041 – HEIGHT VERIFICATION The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection. The applicant shall provide</p>	<p>1) The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection</p>	<p>Owner/ Applicant</p>	<p>Prior to the issuance of grading or building permits</p>	

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)
		evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (RMA – Planning Department and Building Services Department)	<p>2) The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.</p> <p>3) The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.</p>	Owner/ Applicant	Prior to the foundation pour inspection	
6.		PD011 – TREE AND ROOT PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, 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, approved by a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – Director of Planning. If there is	Submit evidence of tree protection to the RMA - Planning Department for review and approval. Submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.	Owner/ Applicant	Prior to the issuance of grading and/or building permits During Construction	

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)
		any potential for damage, all work must stop in the area and a report, with protection measures, shall be submitted by a certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (RMA - Planning Department)	Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection	
	7.	PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A Design Approval (Resolution PLN110098) was approved by the Zoning Administrator for Assessor's Parcel Number 007-262-016-000 on June 9 th , 2011. The Design Approval was granted subject to 9 conditions of approval which run with the land. A copy of the Design Approval is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
	8.	PD016 – NOTICE OF REPORT Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "An Archaeological report has been prepared for this parcel by Gary S. Breschini and Mary Doane, dated March 23, 2011 and is on record in the Monterey County RMA - Planning Department, Library No. 1100163. All development shall be in accordance with this report." (RMA – Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department. Submit proof that all development has been implemented in accordance with the report to the RMA - Planning Department for review and approval.	Owner/ Applicant Owner/ Applicant	Prior to the issuance of grading and building permits. Prior to Occupancy	

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.		<p>PD047 – DEMOLITION/DECONSTRUCTION OF STRUCTURES (MBUAPCD RULE 439)</p> <p>In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:</p> <ol style="list-style-type: none"> 1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process; 2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building; 3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour. <p>All Air District standards shall be enforced by the Air District.</p> <p>(RMA – Planning Department)</p>	<p>Applicant shall incorporate a "Demolition/ Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.</p>	Contractor /Owner/ Applicant	Prior to the issuance of a demolition permit	
			<p>Contractor shall obtain any required Air District permits and conduct all deconstruction or demolition activities as required by the Air District.</p>	Contractor /Owner/ Applicant/ Air District	During demolition	
10.		<p>PDSP001 – COUNTY APPROVED CERTIFIED ARBORIST SUPERVISION</p> <p>Roots of neighboring trees encroaching onto the project site shall be protected from damage from construction equipment and/or activity. Removal of AC patio surfaces located over the roots of the pine tree located just over the property boundary on the adjacent property to the south, and all construction activity in the critical root zone and/or canopy drip lines (whichever is greater) of this tree, shall be conducted under the supervision of</p>	<p>Submit evidence that a County-approved certified Arborist has been contracted to provide supervision and recommendations to ensure the health of the neighboring trees/roots while construction or removal of pavement in the critical root zone and/or canopy drip line (whichever is greater) of the subject tree.</p>	Owner/ Applicant/ Arborist	Prior to the issuance of grading and/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)
		<p>a County-approved certified Arborist. If there is a potential for damage of the roots, all work must stop in the critical root zone and/or canopy drip lines (whichever is greater), and a report, recommending protective measures for the root system, shall be prepared by a County approved certified Arborist, and submitted to the RMA – Planning Department for review & approval. Additionally, the required landscaping plan shall include the substitution of materials in the areas the removed AC patio surface appropriate/necessary to protect the root system of the subject tree. The substituting landscaping material shall be reviewed and approved by a certified arborist. (RMA – Planning Department)</p>	<p>Submit evidence of review of the landscaping plan by a County-approved certified arborist.</p>	Owner/ Applicant/	Prior to the issuance of grading and/or building permits	
11.		<p>PD004 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action;</p>	<p>Submit photos of the trees and roots, and a letter prepared by the contracted County-approved certified Arborist to the RMA – Planning Department for review and approval. The letter shall report on the health of the trees/roots on the property and state whether the tree and root protection measures have been successful, or if follow-up remediation or additional permits are required.</p>	Owner/ Applicant/ Arborist	Prior to issuance of a final building permit	
			<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	Before the issuance of the first building permit for the project.	

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)
		<p>but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails 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. (RMA - Planning Department)</p>				

END OF CONDITIONS

EXHIBIT 2 TO EXHIBIT D

**SITE PLAN, FLOOR PLANS AND
ELEVATIONS**

JAMES NEWELL SMITH
 ARCHITECTS
 211 GRAND AVENUE
 PACIFIC GROVE, CA
 93950
 TEL: 831-372-7251
 FAX: 831-372-7252
 CELL: 831-915-9518



Monteary Peninsula Properties
 Mark Dumont
 (831) 241-4214

KEHRING RESIDENCE

DOUG & CARLE KEHRING
 500 CORMORANT RD.
 PEBBLE BEACH, CA



SITE PLAN

SHEET TITLE

SCALE: 1/8" = 1'-0"

DATE

PROJECT NUMBER: A1.0

PROJECT INFORMATION

PROJECT DESCRIPTION: REDESIGN AND CONSTRUCTION OF NEW TWO-STORY BRICK RESIDENCE WITH ATTACHED GARAGE.

PROJECT ADDRESS: 500 CORMORANT RD., PEBBLE BEACH, CA 93955

PROJECT OWNER: DOUG & CARLE KEHRING, 500 CORMORANT RD., PEBBLE BEACH, CA 93955

PLANNING INFORMATION:

- APN: 068-044-000
- LOCAL ORDINANCE: 18.11.01 SUBD. MAPS
- LOCAL JURISDICTION: MONTEREY PENINSULA PROPERTIES
- ZONING: MS-45-A
- MAX. ALLOWABLE BUILDING HEIGHT: 27'
- TYPE: RESIDENTIAL
- TOPOGRAPHY: NEARLY FLAT
- DRAWING APPROX. DATE: 10/2011
- PRELIMINARY: YES

BUILDING INFORMATION

- PROPOSED CONSTRUCTION CODE: 2009 IBC
- 1. SITE AREA: 17,000 S.F.
- 2. TOTAL LOT AREA: 17,000 S.F.
- 3. TOTAL BUILDING AREA: 17,000 S.F.
- 4. MAX. ALLOWABLE COVERAGE: 100%
- 5. MAX. ALLOWABLE FLOOR AREA: 17,000 S.F.
- 6. EXISTING FLOOR AREA: 17,000 S.F.
- 7. EXISTING GARAGE: 17,000 S.F.
- 8. EXISTING DRIVEWAY: 17,000 S.F.
- 9. EXISTING DRIVEWAY APPROACH: 17,000 S.F.
- 10. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 11. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 12. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 13. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 14. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 15. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 16. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 17. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 18. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 19. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.
- 20. EXISTING DRIVEWAY APPROACH TO BE REMOVED: 17,000 S.F.

DRAWING INDEX

ARCHITECTURAL: A1.0 SITE PLAN & PROJECT INFORMATION

LANDSCAPE: A2.0 LANDSCAPE ARCHITECTURE

MECHANICAL: A3.0 MECHANICAL

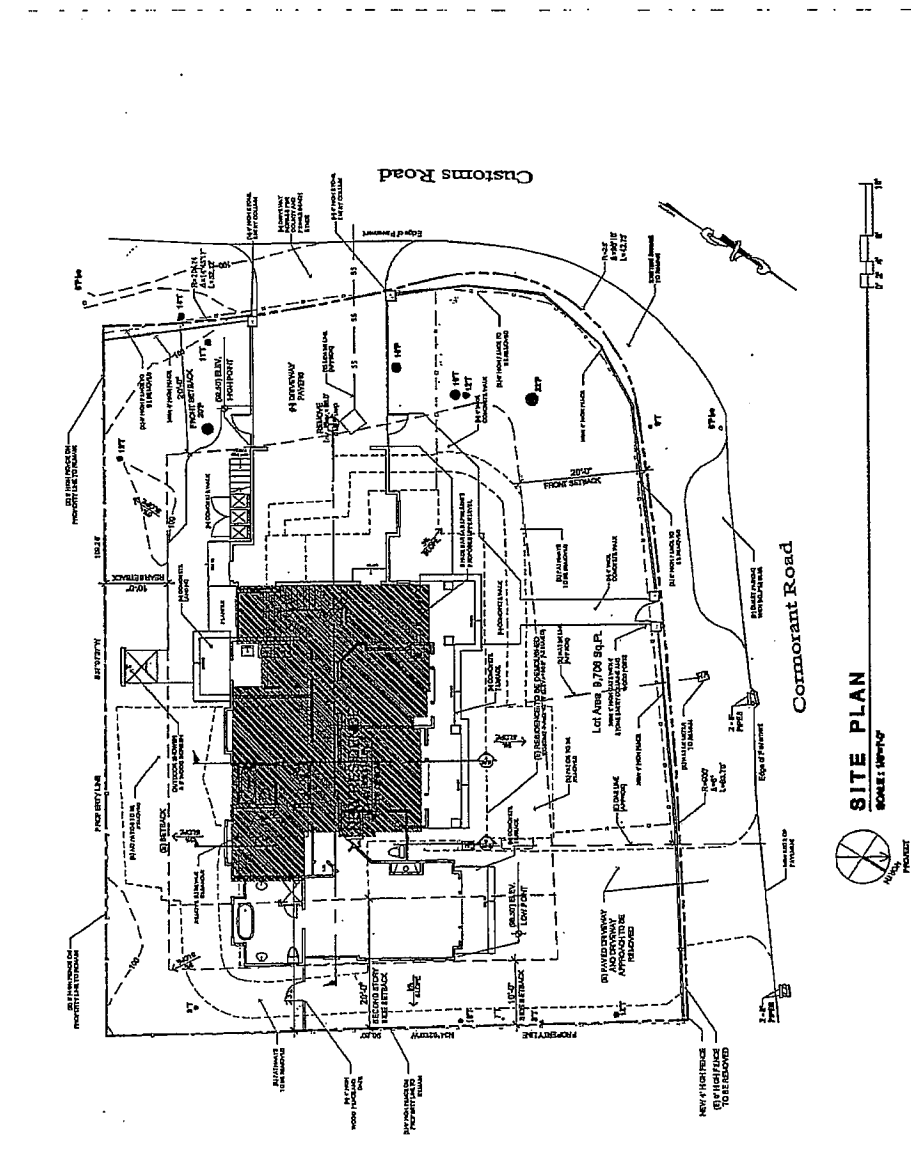
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PLUMBING: A5.0 PLUMBING

PAVING: A6.0 PAVING

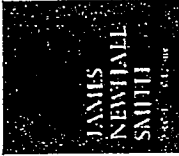
EXTERIOR FINISHES: A7.0 EXTERIOR FINISHES

VICINITY MAP



SITE PLAN
 SCALE: 1/8" = 1'-0"

ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF THE ARCHITECT. ANY REUSE OR MODIFICATION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT IS STRICTLY PROHIBITED. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THIS DRAWING. THE CLIENT ASSUMES ALL LIABILITY FOR THE ACCURACY OF THIS DRAWING. THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PROJECTS WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.



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Monterey Peninsula
Properties
Mark Dumont
(831) 241-4214

PARAGLYPH

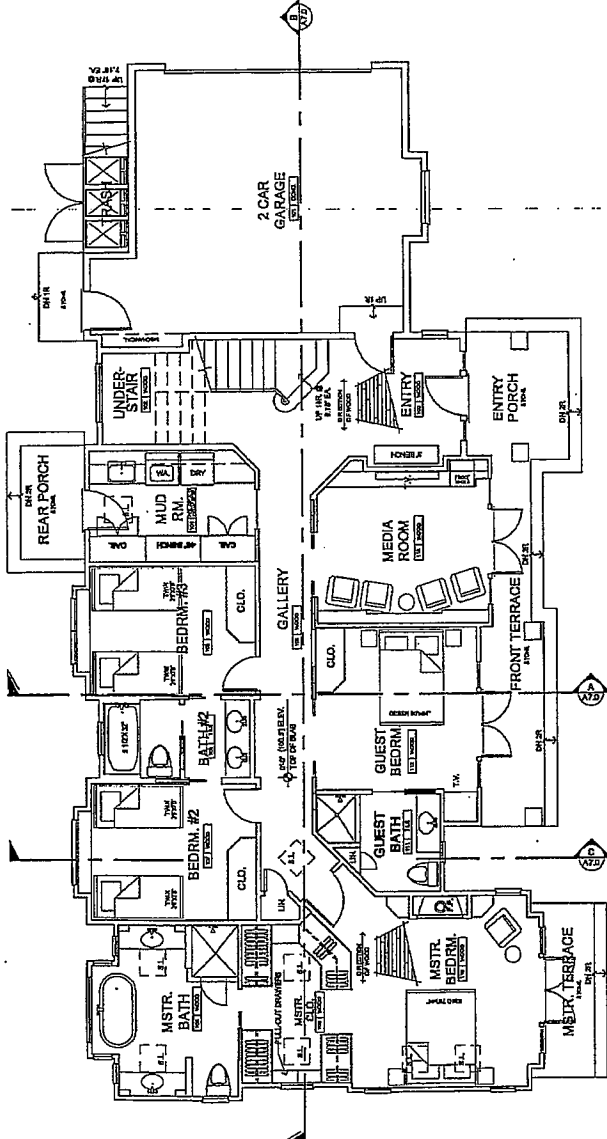
KEHRING RESIDENCE

DOUG L. COURSE KEHRING
2882 CORONANT RD.
PEBBLE BEACH, CA



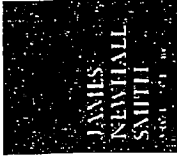
SHEET 010
LOWER LEVEL PLAN

○ BRK	△ FINISH
○ (with diagonal lines)	FINISHED GRANITEL
○	
○	
△	
△	
△	
△	
△	
DATE	
SHEET NUMBER	A2.0



LOWER LEVEL PLAN
SCALE: 1/8" = 1'-0"

PLAN NOTES	
1	SEE 1ST FLOOR PLAN FOR FINISHES
2	SEE 1ST FLOOR PLAN FOR FINISHES
3	SEE 1ST FLOOR PLAN FOR FINISHES
4	SEE 1ST FLOOR PLAN FOR FINISHES
5	SEE 1ST FLOOR PLAN FOR FINISHES
6	SEE 1ST FLOOR PLAN FOR FINISHES
WALL LEGEND	
(Symbol)	SEE 1ST FLOOR PLAN FOR FINISHES
(Symbol)	SEE 1ST FLOOR PLAN FOR FINISHES
(Symbol)	SEE 1ST FLOOR PLAN FOR FINISHES



JAMES
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Monterey Peninsula
Proprietor
Mark Dumont
(831) 241-4214

PROJECT/ARCHITECT

**KEHRING
RESIDENCE**

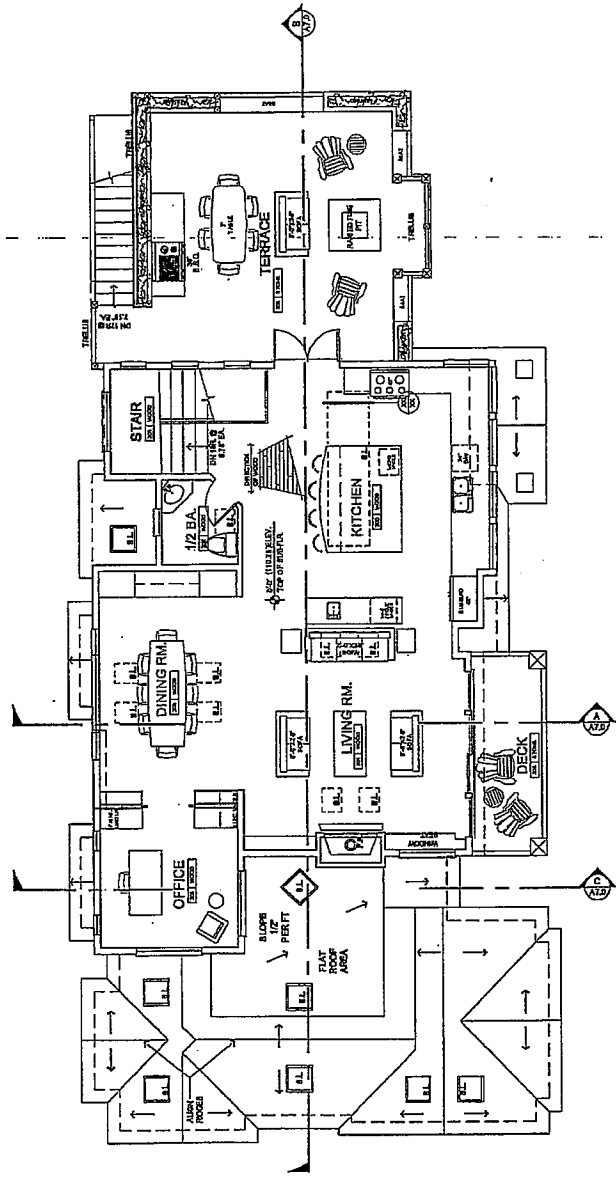
DOUG & CARRIE KEHRING
2893 CORNCRANT RD.
PEBBLE BEACH, CA



SHEET TITLE
**UPPER LEVEL
PLAN**

○	Prop
△	Proposed
①	6/25/11 Planned Structural
○	
○	
△	
△	
△	
DATE	

SHEET NUMBER
A2.1



UPPER LEVEL PLAN
SCALE: 1/4" = 1'-0"

PLAN NOTES

1	EXISTING PLUMB WALL
1	STYLY FRAMER
1	CMU WALL-SEE STRUCTURAL DWGS

WALL LEGEND

**JAMES
NEWHALL
SMITH**
ARCHITECTS

211 GRAND AVENUE
PACIFIC GROVE, CA
93950

TEL: 831.975.7251
FAX: 831.975.7252
CELL: 831.815.9518



PROJECT TITLE
**KEHRING
RESIDENCE**

DON & CARIE KEHRING
2807 CORCORANT RD.
PISMO BEACH, CA.



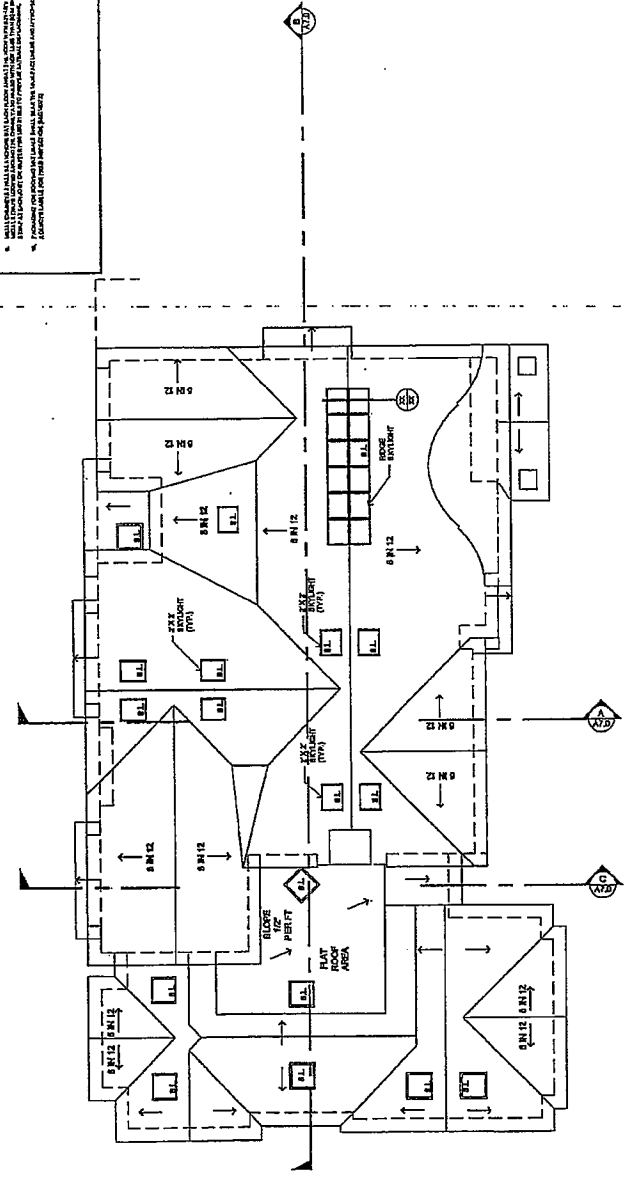
SHEET TITLE
ROOF PLAN

○	ROOF	△	TRUSSES
○	24-24-11	△	24-24-11
○		△	
○		△	
○		△	
○		△	
○		△	
○		△	

SHEET NUMBER
A5.0

ROOF PLAN NOTES

1. ROOF PLAN IS TO BE USED TO DETERMINE THE ROOF AREA.
2. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
3. ROOF AREA SHALL BE CALCULATED USING THE FOLLOWING FORMULAS:
4. TRIANGULAR ROOF: $A = \frac{1}{2} \times \text{Base} \times \text{Height}$
5. RECTANGULAR ROOF: $A = \text{Length} \times \text{Width}$
6. TRAPEZOIDAL ROOF: $A = \frac{1}{2} \times (\text{Top Width} + \text{Bottom Width}) \times \text{Height}$
7. CIRCULAR ROOF: $A = \pi \times \text{Radius}^2$
8. CONICAL ROOF: $A = \pi \times \text{Radius} \times \text{Slant Height}$
9. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
10. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
11. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
12. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
13. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
14. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.
15. ALL ROOF AREA CALCULATIONS SHALL BE BASED ON THE EXISTING ROOF AREA.



ROOF PLAN
SCALE: 1/8" = 1'-0"

JAMES H. SMITH ARCHITECTS
 211 GRAND AVENUE
 PACIFIC GROVE, CA.
 93950
 TEL: 831.372.7251
 FAX: 831.372.7252
 CEL: 831.916-9578

Monterey Peninsula
 Proprietary
 Mark Dumont
 (831) 241-4214

PROJECT/CLIENT

KEHRING RESIDENCE

DOUG & CARRIE KEHRING
 2983 CORMORANT RD.
 PEBBLE BEACH, CA.



SHEET TITLE

EXTERIOR ELEVATIONS

○ 1550C △ 1550D15

① 02-250-11 FINISHED SUBMITTAL

○

○

○

△

△

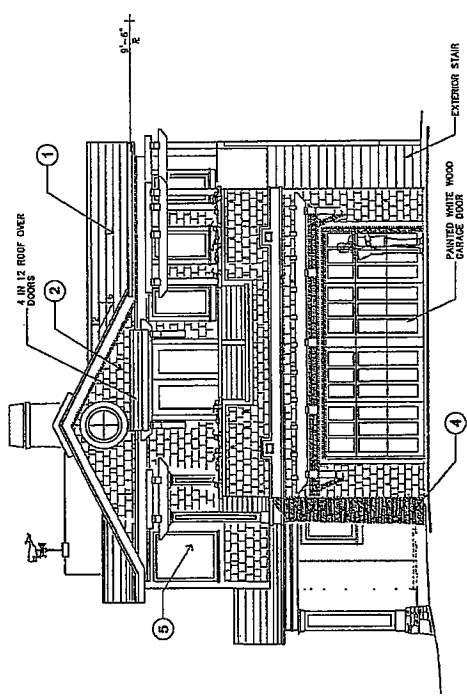
DATE

SHEET NUMBER

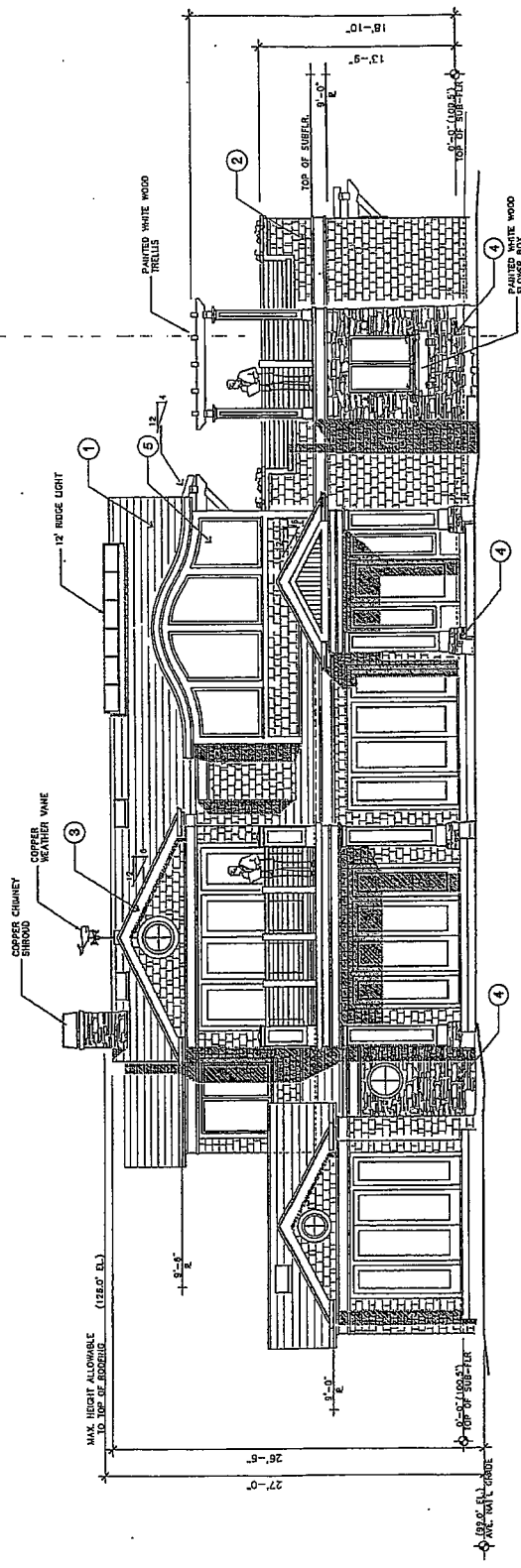
A6.0

ELEVATION MATERIALS LEGEND	
①	CEDAR SHINGLE ROOFING
②	WEATHERED GRAY CEDAR SHINGLES
③	BRIGHT WHITE PAINTED WOOD TRIM & ACCENTS
④	STONE ACCENT
⑤	BRIGHT WHITE PAINTED WOOD DOORS AND WINDOWS

ELEVATION NOTES	



WEST ELEVATION
 SCALE: 1/4" = 1'-0"



MAIN (NORTH) ELEVATION
 SCALE: 1/4" = 1'-0"

EXHIBIT E

VICINITY MAP

DEL MONTE FOREST

PACIFIC GROVE

Pacific
Ocean

PROJECT SITE

PACIFIC GROVE



APPLICANT: KEHRING

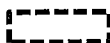
APN: 007-262-016-000

FILE # PLN110098

Water



2500' Limit



300' Limit



City Limits

N



PLANNER: NAKAMURA

EXHIBIT F

**CORRESPONDENCE SUBMITTED BY THE
APPLICANT**

July 8, 2011

Chair Getzelman
Monterey County Planning Commission
168 West Alisal Street, Second Floor
Salinas, CA 93901

RE: Approval of PLN110098 - 2993 Cormorant Road

Dear Chair Getzelman and Members of the Planning Commission,

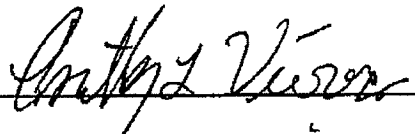
This letter is provided in support of the new single family residence proposed by our neighbor at 2993 Cormorant Road in Pebble Beach. The single family residence was approved by the Zoning Administrator on May 31, 2011.

The Kehring's have designed a home that is modest in size, blends well with the neighborhood character and is sensitive to the environment. They shared their design with interested parties and have responded positively to comments. As an example, the residence was specifically sited to maintain views from the adjacent properties.

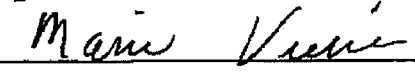
Our neighborhood is in transition and will continue to change as new projects are approved. This is a thoughtful project that takes into consideration the existing environment and the inhabitants of the neighborhood and should be approved.

Thank You

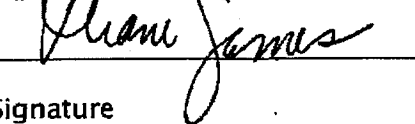
Sincerely,



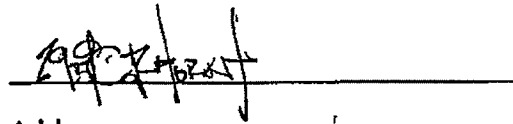
Signature



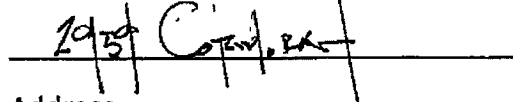
Signature




Signature



Address



Address



Address

James
Signature

2964 Cormorant
Address

Moody
Signature

2967 Cormorant
Address

[Signature]
Signature

2968 Cormorant Rd
Address

Dora M. Fisher
Signature

2968 Cormorant Rd.
Address

[Signature]
Signature

2972 Cormorant Rd
Address

[Signature]
Signature

2975 Cormorant Rd
Address

[Signature]
Signature

3003 Cormorant Road
Address

[Signature]
Signature

3002 Cormorant Rd
Address

[Signature]
Signature

3012 Cormorant Rd
Address

Barbara C. Moody
Signature

3011 Cormorant
Address

Robert J. Moody
Signature

3011 Cormorant Rd
Address

[Signature]
Signature

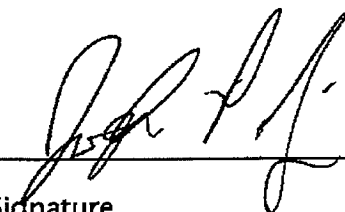
3017 Cormorant
Address

[Signature]
Signature

3024 Cormorant
Address


Wayne Long
Signature

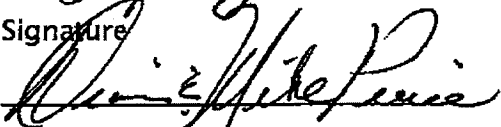
11
Address

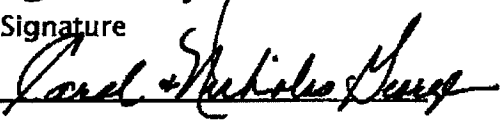


Signature

NEUTRAL

Signature


Signature


Signature


Signature

Signature

Signature

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Signature

Signature

Signature

983 Customs

Address

5007 Capotaunt Rd.

Address
2984 Cormorant Rd

Address
988 Customs Rd.

Address
987 Customs Road

Address

Address

Address

Address

Address

Address

Address

Address

Address

July 8, 2011

Chair Getzelman
Monterey County Planning Commission
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Salinas, CA 93901

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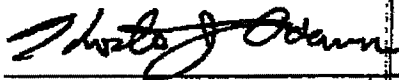
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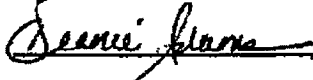
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Thank You

Sincerely,



Signature



Signature

Signature

2996 CORMORANT ROAD

Address

2996 Cormorant Road.

Address

Address

July 8, 2011

Chair Getzelman
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168 West Alisal Street, Second Floor
Salinas, CA 93901

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Thank You

Sincerely,

Mr. and Mrs. Jim Jasper

Signature

2960 CORMORANT Rd. P.B.

Address

Signature

Address

Signature

Address

July 8, 2011

Chair Getzelman
Monterey County Planning Commission
168 West Alisal Street, Second Floor
Salinas, CA 93901

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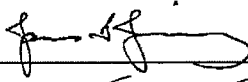
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Thank You

Sincerely,



Signature JAMES G. JIMENEZ

2992 CORMORANT RD.

Address PEBBLE BEACH, CA 93953

Signature

Address

Signature

Address