

# Exhibit E

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August 16, 2017

Via E-Mail Only:

[tony@alombardolaw.com](mailto:tony@alombardolaw.com)

Anthony Lombardo, Esq.  
ANTHONY LOMBARDO & ASSOCIATES  
A Professional Corporation  
144 W. Gabilan Street  
Salinas, CA 93901

**RE: GAMBORD/HEVRDEJS**

Dear Mr. Lombardo:

Kindly be advised that my office represents Joel and Dena Gambord of 1683 Crespi Lane, Pebble Beach, CA 93953 with regard to the privacy-invasion controversy regarding the demolition and reconstruction proposal next door of your clients, Frank and Michelle Hervdejs.

As you will be aware from Mr. Hervdejs' email on August 14 to Mr. Gambord, the situation between the parties has very seriously deteriorated, with them moving further apart rather than closer together.

As land-use attorneys, you and I know that the two general grounds of legal attack on the legal validity of a project are:

1. Procedural deficiencies in processing the application.
2. Inconsistencies between the project and any provisions of law governing the project, such as, without limitation, statutes, ordinances, general plans, specific plans, or design review guidelines.

For example, even without doing the detailed research to be able to cite “chapter and verse” from the Monterey County Code, it is apparent to me that your clients’ design change regarding the deck, made after the project received a recommendation for approval from the Del Monte Forest Land Use Advisory Committee (“LUAC”), a County agency, requires a re-submission of the project as now revised to the LUAC for new advisory review before the project can move to the Zoning Administrator for consideration.

Please immediately advise that your clients’ agree with this analysis and will be submitting the revised project to the LUAC, before attempting to have the current favorable recommendation of the LUAC on the initial-but-now revised project heard before the Zoning Administrator.

I apologize for the request for an immediate response, but as you will be aware, the next scheduled Zoning Administrator’s hearing date is barely 2 weeks away, and as of when I checked earlier today (August 16, at 9:50 AM), no Agenda of the items to be considered had been posted on the County website.



The Gambords and I remain hopeful that it will not be necessary for the parties to begin to incur significant attorney's fees in this matter, by "going to the mattresses" if the controversy does not settle very quickly.

More specifically, if it cannot be settled, it will be necessary for me to conduct in-depth research on the following outstanding issues:

1. Whether a conflict of interest disqualifies your office from representing the Hervdejs because, in representing the Gambords when they obtained their building permit on the next-door property, your office may have become privy to confidential information relevant to the current controversy surrounding the Hervdejs project.
2. Whether written prior notice and an opportunity to be heard was given to the Gambords (as persons whose property rights may be adversely affected) by the County of Monterey preceding each of review of, or action upon, the Hervdejs project by a County agency, as required by due process of law. (See: *Horn v. County of Ventura* (1979) 24 Cal.3d 605). As you know, due process is a right conferred by the U.S. Constitution, so that any violations of it are actionable in federal court as well as state court, under the Federal Civil Rights Act (Title 42 USC §1983), which has a two year limitation period in California, so that - starting with the tear-down permit which Mr. Hervdejs' July 28, 2016 letter refers to as "recently approved" - all project approvals or like governmental actions to date are subject being ordered rescinded if County records do not show mailing of prior written notice and an opportunity to be heard to the Gambords.

3. Whether the project is consistent with any and all applicable statutory and regulatory provisions, including, without limitation, the Del Monte Forest Architectural Review Board design guidelines or other applicable regulations, the Monterey County Code, the Monterey County general plan, the Monterey County specific plan (Del Monte Forest Land Use Plan), and the state Local Coastal Plan.

Mr. Gambord has repeatedly requested that Mr. Hervdejs provide him with copies of the house plans so that he can make a careful review of the situation.<sup>1</sup>

That request is respectfully renewed, both as to the original and revised plans.

Without in any way limiting the generality of the foregoing request for the entire set of plans, both before and after the deck change, Mr. Gambord particularly requires the “structural cross sections,” showing existing and proposed grades so he may study if the proposed structure is being placed at the proper elevation in compliance with Monterey County slope/density requirements.

Further to this issue: it appears that the maximum allowable height of the structure is 30 feet above the average grade of the lot, which grade for some reason is referred to as “slope density.” Because a large portion of the Hervdejs lot is covered by the existing residence, the slope density calculation made by the Hervdejs’ engineer to satisfy project application requirements must necessarily have involved subjective estimates of the grade of this large portion of the lot surface covered by the residence. If, as a result, an error in calculation of the

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<sup>1</sup> Mr. Hervdejs provided the plans to Mr. Gambord for only a day - too short a period for adequate review - and demanded that they be returned without being copied.

average grade resulted, and falsely produced apparent entitlement to build the replacement house at a height higher than that actually permitted under an accurate slope density/average grade calculation, then this is clearly a matter of legitimate concern to the Gambords. Accordingly, we are also requesting both (1) access to the work of the Hervdejs civil engineer who calculated the average grade for the Hervdejs, and (2) access to the Hervdejs site for the Gambord's civil engineer to make his own calculations of the slope density/average grade of the site.

Equally important, Mr. Gambord requires the plans in order to assess the factual accuracy of rather vague assertions in Mr. Hervdejs' August 14 email that allegedly make the agreement for a 268 feet-long privacy row of trees "*not a feasible request for us,*" to wit: (1) The large trees [the Gambords] are requesting would "*negatively affect*" our ability to use the path we have alongside of our house; (2) The existing fire department standing pump and main irrigation valve near the lot line "*would need to be relocated at great cost,*" and (3) Our garage turnaround area "*would have to be reduced*" making access to our garage "*difficult.*"

It appears the 20 foot side yard setback should provide more than adequate space for the anticipated row of trees, as well as for a walk path to storage areas and for maintenance and relocation, if necessary, at a minimal cost, of the old, deteriorated fire suppression equipment.

Mr. Gambord has just discovered that there is a concrete retaining wall remnant (i.e., a structure) on the Hervdejs side of the boundary between the properties, within the 20- foot setback area where structures are not permitted. Mr. Gambord requests that this retaining wall remnant be removed to eliminate the setback violation, and that the terrain be restored to its original state.

Accordingly, please confirm that during the demolition of the existing structure, the Hervdejs plan to remove the existing concrete retaining wall and restore the natural terrain. This question should be answered at the resubmittal of the project, i.e. should be expressly provided for in the resubmittal documentation.

For the sake and in the spirit of compromise, Mr. Gambord had offered to pay \$12,500 of the cost of the 268 feet long line of cypress trees. That offer having been rebuffed by Mr. Hervdejs, Mr. Gambord has withdrawn his offer.

Finally, as a building contractor, Mr. Gambord respectfully corrects Mr. Hervdejs' mistaken impression that the side yard/property line fence (whose cost the parties have agreed to share) is subject to County design review approval.<sup>2</sup> Mr. Gambord expects momentarily to receive a bid for the fence from a contractor (for the agreed design provided by Mr. Hervdejs). He will contract for its immediate construction, and send Mr. Hervdejs a bill for half the cost.

Please advise.

Respectfully yours,



BRUCE TICHININ

cc: Joel & Dena Gambord  
Joe Sidor

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<sup>2</sup> Mr. Gambord's understanding is that only fences at the front of a property are subject to architectural review.

**Sidor, Joe (Joseph) x5262**

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**From:** Ray Humiston <rhum3@me.com>  
**Sent:** Friday, October 6, 2017 5:12 PM  
**To:** Sidor, Joe (Joseph) x5262  
**Subject:** PLN 170535

Hi Joe.....It was nice speaking with you this afternoon. As I mentioned, I reside at 1700 Crespi Lane in Pebble Beach. It became obvious to me that the owners of the property next to us, Frank and Michelle Hevrdejs, were in the process of applying for a building permit. I thought it would be useful to introduce myself to them, and become familiar with their plans.

I had a chance to examine the flagging, and thoroughly review the plans and elevations for the new house. First of all, the Hevrdejs appear to be wonderful people, and we are excited to have them as neighbors. More importantly, we are very happy with the house they plan to build. It will be a significant improvement to our neighborhood. The design is stunningly beautiful, and it's a huge upgrade to the old, existing building on the property.

In case it's not obvious, my wife and I are in complete support of the proposed house at 1691 Crespi Lane. Thanks for your consideration.

All the best, Ray Humiston

To: Monterey County Planning Department

RMA/Planning

1441 Shilling Place

Salinas, CA 93901

Ref: PLN 170535

Attn: Joe Sidor

From: Steve & Geri Bloomer

3177 Del Ciervo Road

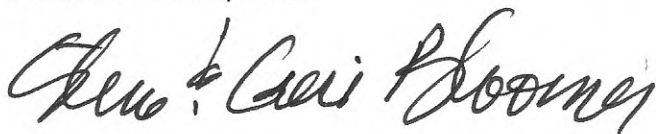
Pebble Beach, CA 93953

Subject: Comments concerning development proposed for 1691 Crespi Lane Property

We have had the opportunity to review the proposed project of Frank and Michelle Hevrdejs at 1691 Crespi Lane, Pebble Beach, CA 93953. Having done this and considering what our property looks down on currently we heartily endorse and support this home reconstruction. The current structure is a compound that appears was added onto at various times and could use considerable updating to bring into current standards in the area.

It appears that this structure has not been lived in in numerous years and needs improvements. The plan that the Hevrdejs have put forward is pleasant to look at and fitting for the site and local. It appears that well thought out materials and colors are employed to complement and blend in the setting. The view from our property above this location is going to be enhanced by the updating and construction of this new lower height structure.

We have no concerns about the design, materials or layout of this proposed development and look forward to its completion.

A handwritten signature in black ink, appearing to read "Steve & Geri Bloomer". The signature is fluid and cursive, with the first names being more prominent.

Steve & Geri Bloomer

3177 Del Ciervo Road

Pebble Beach, CA 93953

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January 2, 2018

Via E-Mail Only:

[novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

TO: Mike Novo, Monterey County Zoning Administrator

RE: Project Name: HERVDEJS FRANK J. & MICHELLE H.

File Number: PLN 170535

Project Planner: Joseph Sidor

Area Plan: Del Monte Forest Land Use Plan, Coastal Zone.

Project Description: Combined Development Permit consisting of: 1) Coastal Administrative Permit and Design Approval to allow construction of a 10,417 square-foot single-family dwelling, with a 799 square-foot attached garage and a 548 square-foot detached garage; 2) Coastal Administrative Permit and Design Approval to allow construction of an 810 square-foot accessory dwelling unit; 3) Coastal Development Permit to allow a 7,833 square-foot reduction of impervious surface coverage (from 27,829 square feet to 19,996 square feet); 4) Coastal Administrative Permit to allow development within 750 feet of known archaeological resources; and 5) Coastal Administrative Permit to allow development on slope exceeding 25%. The property is located at 1691 Crespi Lane, Pebble Beach (Assessor's Parcel Number 008-371-013-000), Del Monte Forest Land Use Plan, Coastal Zone.

Dear Mr. Novo:

Kindly be advised that my office represents Joel & Dena Gambord of 1683 Crespi Lane, Pebble Beach, with regard to the above project. The Gambord Property is directly adjacent to the subject Hervdejs Property.

## INTRODUCTION

### A. The Request Being Made

I am writing to request that, before calendaring the subject Hervdejs Project for a Zoning Administrator Hearing, you correct serious defects in the prior processing of the Project - by sending it back to the Del Monte Forest Land Use Advisory Committee ("Del Monte Forest LUAC," or "Committee") and the Pebble Beach Architectural Review Board ("Pebble Beach ARB," or "Board") for re-hearings.

Doing so will make it possible for the Committee and the Board, should they choose to so exercise their discretion, to recommend to the Zoning Administrator what will be a "win-win-win" solution for the Hervdejses, the Gambords and County Fire by:

1. For the Gambords: by relocating the proposed re-built residence so that its privacy-invading "line of sight" from the main room of the proposed Hervdejs residence into the bedroom and deck of the Gambord residence is completely eliminated,
2. For the Hervdejses: by rendering the County's processing of the project defensible against legal attack on the grounds of the defects.
3. For County Fire: by greatly increasing its ability to fight any fire threatening the proposed new Hervdejs residence, by giving it far greater access all around the proposed residence in the event of a fire - not only to the structure but to the surrounding forested areas as well.

The serious processing defects, simply stated, are these:



1. At the Del Monte Forest LUAC hearing, Joel Gambord was actively prevented from presenting his position that the proposed Hervdejs tear-down/re-build residence should be served by a circular driveway, when Project Planner Joseph Sidor informed the Committee that Monterey County "policy" allegedly prohibits circular driveways.
2. After approval at the Pebble Beach ARB hearing, the Hervdejs teardown-rebuild project was materially changed by eliminating a deck shown on the new-house plans (possibly to eliminate the requirement for a Coastal Administrative Permit to allow development on slope exceeding 25% -see 5) above, in the referenced Project Description), and no re-hearing has been held on the changed plan.

#### B. The Reasons for a Circular Driveway

##### 1. "Protection of Pebble Beach Neighborhood Character," i.e., Privacy

There is no characteristic of the Pebble Beach neighborhood that is more valued by its residents than its privacy. From the secure, gated entrance to the 17 Mile Drive, to the large and heavily forested lots along the Drive owned by all its residents, no attribute of the Pebble Beach neighborhood is more salient than the privacy it creates for its residents. But, for the Gambords, the Hervdejs residence, as proposed, rudely and entirely without any necessity, *destroys* this aspect of neighborhood character - by creating a new direct line of sight from the main floor of the proposed new Hervdejs residence into both (1) the very *master bedroom* of the Gambord residence, as well as (2) the *outside private deck* of the Gambord residence, where Mrs. Gambord, at least until now, has enjoyed sunbathing. It would be years before any kind of landscaping solution, as the Hervdejses had once suggested, would be effective. A circular driveway would allow the proposed structure to be moved easterly, at least 20 feet or more, and at the same time lower in elevation, following the contour of the land in a natural way and consistently

with the neighborhood, and thereby eliminating the invasive “line-of-sight” into the private areas of the Gambord residence.

The circular driveway proposed by Mr. Gambord imposes no burden on the Hervdejses that the Gambords - whose own driveway is circular - do not bear themselves.

**2. “Protection of Pebble Beach Neighborhood Character,” i.e.,  
Architecture.**

The roof of the proposed Hervdejs new residence is as flat as a commercial bunker, nonconforming to the Pebble Beach neighborhood, which is characterized by traditional pitched roofs. This feature is more than simply out of character with the neighborhood, it has the “cheating” effect of allowing, according to the plans, the main floor level to be at least 5 feet higher and 10 feet closer to the Gambord residence than the existing home on the Hervdejs property. This added height for the main floor increases the privacy-invading line-of-sight view from the proposed residence into the private master bedroom and outside private deck of the Gambord residence. This effect only increases the reasonableness of the Gambord proposal for a circular driveway that will: (1) move the proposed Hervdejs new residence away from the Gambord residence, thereby eliminating its intrusive “looming” effect on the Gambords’ living space, and (2) move the proposed Hervdejs new residence down the hill, thereby eliminating its line-of-sight intrusion into the private areas of the Gambord residence.

**3. Greatly Increased Fire Protection for the Hervdejs Residence.**

A circular driveway provides fire truck access all around a residence, and to the surrounding areas as well - here a forest from which the fire could easily leap

to the residence if not successfully doused. If a “hammerhead/T” or a “terminus bulb” design for the fire truck turnaround were used instead, it would obviously have less firefighting access to both the house and the surrounding area, i.e. only a single “point” where the hammerhead or the bulb is located, compared to a “continuum of multiple points” all around the house and the forested area surrounding the house with the proposed circular driveway.

### **ARGUMENT**

To the extent the gravity of these processing defects is not immediately apparent from the brief descriptions above, then, in greater detail, the violations of the Gambords’ legal rights under this intolerably intrusive and entirely unnecessary building and site design that must be corrected to achieve valid and legally-defensible decisions by the County, are as follows.

#### **I.**

**UNDER ITS DESIGN REVIEW JURISDICTION, THE DEL MONTE FOREST LUAC HAD BOTH THE AUTHORITY AND THE DUTY TO PROTECT THE PEBBLE BEACH NEIGHBORHOOD CHARACTER OF PRIVACY BY REGULATING THE LOCATION THE PROPOSED HERVDEJS STRUCTURE.**

The review of the Del Monte Forest LUAC for its recommendation to the Zoning Administrator occurred pursuant to the Design Approval provisions of Chapter 20.44-D District of the Coastal Implementation Plan found in Title 20 of the Monterey County Zoning Ordinance.

In relevant part, Chapter 20.44 states that *“The purpose of this Chapter is to provide ... for the **regulation of the location ... of structures** ... where the design review of structures is appropriate to assure **protection of ... neighborhood character** ... and ... the **visual integrity** of certain developments without imposing undue restrictions on private property.”*(§20.44.010, bolding added.)

The Chapter further provides that it shall apply *“only to those areas in which the visual impacts of structures can be adequately mitigated by regulation of the location [of the structures],”* including *“... all of the areas within the following Area Land Use Plans ... Del Monte Forest.”*(§20.44.020 B. & C., bolding added.)

Under these Design Approval provisions of County law - completely independent of the constitutional rights of procedural and substantive due process of law and equal protection of law – the advisory authority and advisory duty of the Del Monte Forest LUAC clearly included hearing and determining whether to advise that the Zoning Administrator to approve the circular driveway that Mr. Gambord attempted to present to the LUAC that would allow the location of the Hervdejs residence to be changed to eliminate both its (1) claustrophobic nearness to the Gambord residence, and (2) its privacy-invading line of sight into the private areas - the master bedroom and the sunbathing deck - of the Gambord residence.

This is clear, because, as shown above, the design review jurisdiction of Del Monte Forest LUAC extends to *“regulation of the location ... of structures”* to *“assure protection of ... neighborhood character,”* (the Pebble Beach neighborhood character of privacy) wherever *“the visual impacts of structures can be adequately mitigated by regulation of [their] location,”* i.e., the privacy-invading visual impact of the proposed Hervdejs residence on the Gambords can be adequately mitigated (in fact, completely eliminated) by moving its location with a circular driveway, all *“without imposing undue restrictions on [the Hervdejs] private property.”*

Until the Del Monte Forest LUAC has been given the right to exercise this jurisdictional duty and authority at a rehearing of the Hervdejs Application at which the LUAC has the opportunity to hear Mr. Gambord's presentation, the Gambords' rights under the Design Review Chapter of the Coastal Implementation Plan have been violated, and no approval of the Hervdejs Application by the Zoning Administrator will be legally defensible because of this violation of the Chapter.

## II.

### THE FAILURE TO ALLOW MR. GAMBORD A MEANINGFUL HEARING ON HIS POSITION THAT THE PROJECT SHOULD BE CONSIDERED FOR A CIRCULAR DRIVEWAY WAS A VIOLATION OF PROCEDURAL DUE PROCESS OF LAW, A CONSTITUTIONAL RIGHT.

As the U.S. Supreme Court has put it:

*"The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner."*

Mathews v. Eldridge (1976) 424 U.S. 319, 333, punctuation changed.

And as the California Supreme Court has put it:

*"We are satisfied that [under the due process clause of the Fourteenth Amendment] the City of Indian Wells owes adjoining landowners ... a duty to hear their views, and a duty to consider the proposed development with respect to its effect on all neighboring property owners."*

Scott v. City of Indian Wells (1972) 6 Cal.3d 541, 549, punctuation changed.

Thus, when Project Planner Joseph Sidor prevented the Del Monte Forest LUAC from giving Mr. Gambord the opportunity to be heard meaningfully on his circular driveway proposal by stating that circular driveways are against County “policy,” Mr. Gambord’s constitutional right of due process was denied. This right can only be restored by a rehearing before the Del Monte Forest LUAC in which Mr. Gambord is given the opportunity to present his position to the Committee notwithstanding the Project Planner’s perception of the requirements of County policy.<sup>1</sup>

### III.

#### NOTWITHSTANDING ANY POLICY TO THE CONTRARY, THE COUNTY HAS APPROVED CIRCULAR DRIVEWAYS AT LEAST 5 TIMES.

The records on the County of Monterey website show that even if the County does have a policy somewhere prohibiting circular driveways, the County has, nevertheless, approved circular driveways at least 5 times.

##### 1. 2007: Hervdejs (PLN 060268)

This is by far the most relevant County approval of circular driveway for purposes of the subject case, both because (1) it shows that the County has given Mr. Hervdejs exactly the same thing it is currently refusing to give Mr. Gambord, and (2) it was given by the extraordinary mechanism of a variance.

**Exhibit 1**, attached, contains the relevant portions of County records relating to this circular driveway approval. It shows that, just like the subject project, it involved a Coastal Administrative Permit and Design Approval in the Plan Area of the Del Monte Forest Land Use Plan. (**Ex. 1, p. 1**).

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<sup>1</sup> It is worth keeping in mind that because the Gambords’ due process right arises under the federal Constitution, its deprivation is a violation of the Federal Civil Rights Act found at Title 28 USC §1983, and if it becomes necessary for the Gambords to redress this violation in Court, and they are successful, they will be entitled under to recover their attorney’s fees under Title 28 USC §1988 from the County.

In relevant part, the project is described as follows:

*“There exists a 4,285 square-foot circular motor court along with a second 2,938 square-foot driveway entrance to the property. The circular driveway was installed in 1968 as part of the original house construction. The proposal includes replacing the 2,938 square-foot driveway with permeable gravel and reducing the motor court with 200 square feet of pervious planters.”*

**(Ex. 1, p. 2)**

*“The property is located within the Pescadero Watershed of the Del Monte Forest area (§20.147.030.A.1 CIP), which limits coverage to 5,000 square feet for structures plus 4,000 square feet for impervious surfaces (9,000 square feet total). Although adding this senior citizen unit would increase structural coverage from 6,292 square feet to 7,235 square feet, impervious surface coverage is reduced from 7,853 square feet, to 4,715 square feet by eliminating one of the driveway entrances to the property (§20.147.090.A.1 CIP). Staff worked with the applicant to obtain a net reduction of 2,195 square feet (11,950 square feet total). A variance is required to exceed the maximum structural and impervious surface coverage.”*

**(Ex. 1, p. 1)**

Analysis of this record shows that the County - despite any policy prohibiting circular driveways - was so eager to preserve the circular driveway for Mr. Hervdejs that it granted the extraordinary remedy of a variance to allow this to happen.

That is, had the County applied any policy prohibiting circular driveways, by requiring removal of the circular driveway instead of removal of the second driveway, it would have been unnecessary to grant the variance.

Thus, starting with the existing impervious surface coverage of 7,853 square feet and subtracting the 4,285 square feet of impervious surface coverage created by the circular driveway yields a remaining impervious surface coverage of 3,568 square feet, which is well within the 4,000 square feet limit for impervious surfaces in the Pescadero Watershed under the Del Monte Forest Land Use Plan. ( $7,853 - 4,285 = 3,568$ ). So, had the circular driveway been eliminated instead of the non-circular driveway, no variance would have been required, because the impervious surface coverage would have been under the 4,000 square-foot limit.

Approval of this Hervdejs application was granted by the Monterey County zoning administrator on January 5, 2007. (**Ex. 1, pp.3-4**).

**2. 2003: Castle Rock Estates, Inc. (PLN 030035)**

This project was an application for a *“Use Permit ... to allow the construction of a 6,100 square-foot two-story single-family dwelling ... and circular driveway.”* (**Exhibit 2, p.1**) It received unanimous approval from the Monterey County Planning Commission (**Ex. 2, pp. 3, 6**) on September 24, 2003.

**3. 2004: Catania (PLN 030489)**

Once again, this project, like the subject project, consisted of *“a Coastal Administrative Permit and Design Approval,”* in the Plan Area of the *“Del Monte Forest Area, Coastal Zone.”* (**Exhibit 3, p. 1**).

And, once again, a recognized planning goal (this time the planning goal of avoiding tree removal rather than the planning goal of reducing impervious surface) was subordinated in order to permit a circular driveway:



*“Eliminating the secondary driveway to the front door could omit removal of five trees; however, two of these trees are dead and the circular driveway has been designed to retain three trees in the center of the turn-around.”*

(Ex. 3, p. 3)

The project was unanimously approved by the Monterey County Planning Commission on February 25, 2004. (Ex. 3, pp. 4, 8).

**4. 2008: Chappellet (PLN 070024).**

This project was a Combined Development Permit, consisting of a Coastal Administrative Permit and two Coastal Development Permits (one of which, like the subject project, involved demolition of an existing single-family dwelling), located, once again, in the Plan Area of the Del Monte Forest Land Use Plan. (Exhibit 4, p. 1).

The relevant portion of the project description states:

*“Currently three (3) structures exist on the site including a single-family dwelling, a detached guest house, and a carport. The structures are all accessed by a long circular driveway with two access points off 17 Mile Drive.”*

(Ex. 4, p. 2)

The project was approved by the Monterey County Zoning Administrator on February 14, 2008.

(Ex. 4, p. 6)

**5. 2009: Starkman (PLN 090183)**

This project was a use permit that included *“a new circular driveway.”* (Exhibit 5, p. 2, capitalization omitted).

It was approved by the Monterey County Zoning Administrator on December 10, 2009, *“with revisions,”* (Exhibit 5, p. 3). These revisions do not appear to have eliminated the circular driveway, because they were described merely as *“errata”* for the project. (Exhibit 5, p. 2).

#### IV.

### THE ABSENCE OF ANY RATIONAL BASIS FOR BLOCKING CONSIDERATION BY THE DEL MONTE FOREST LUAC OF A CIRCULAR DRIVEWAY HERE - WHEN THE COUNTY PERMITTED CIRCULAR DRIVEWAYS ELSEWHERE - VIOLATED THE GAMBORDS' CONSTITUTIONAL RIGHT TO EQUAL PROTECTION OF LAW.

As the United States Supreme Court has put it:

*“Our cases have recognized successful equal protection claims brought by a ‘class of one,’ where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.”*

Village of Willowbrook v. Olech (2000) 528 U.S. 562, 564. (Village attempted to require a 33 foot easement from the plaintiff to connect their property to the municipal water supply, while only requiring a 15 foot easement from other property owners seeking access to the water supply.)

As shown above, the County has allowed circular driveways for *“similarly situated”* developments (i.e., residential developments in the County).

But, through the action of its Principal Planner in raising an alleged County policy prohibiting such driveways, and thereby blocking consideration of Mr. Gambord's request that the Del Monte Forest LUAC allow such a driveway here, the County has "*intentionally treated [Mr. Gambord] differently*" than the applicants for those approved residential circular driveways.

That Mr. Gambord is not an applicant, but rather a neighbor, is not a "*rational basis*" for the difference in treatment, i.e., the difference in treatment of applying the alleged policy prohibiting circular driveways when an affected neighbor requests a circular driveway, but not applying the policy when a project applicant requests a circular driveway.

*"The Equal Protection Clause ... den[ies] to States the power to legislate that different treatment be accorded to persons placed by the statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation."*

Reed v. Reed (1971) 404 U.S. 71, 75-76.

Assuming the existence of a County policy prohibiting circular driveways, whatever the "*objective*" of the policy is, it seems safe to say that that objective will not have any "*fair and substantial relation to*" any "*difference*" between a project applicant and the next-door neighbor of that project applicant.

V.

ARBITRARILY BLOCKING CONSIDERATION BY THE DEL MONTE  
FOREST LUAC OF A CIRCULAR DRIVEWAY HERE WHEN THE COUNTY  
PERMITTED CIRCULAR DRIVEWAYS ELSEWHERE ALSO VIOLATED  
THE GAMBORDS' CONSTITUTIONAL RIGHT TO SUBSTANTIVE DUE  
PROCESS OF LAW.

*"[D]eliberate and arbitrary abuse of government power violates an individual's right to substantive due process [.]"*

Sinaloa Lake Owners Association v. City of Simi Valley (9<sup>th</sup> Cir. 1989)  
828 F. 2nd 1398, 1408.

The action of the Principal Planner in blocking consideration of a circular driveway for the subject project was intentional, i.e. "*deliberate*," within the meaning of the Sinaloa Lake Owners Association case, and it was an "*arbitrary abuse*" of governmental power, because the County, as shown above, has approved circular driveways for other residential projects.<sup>2</sup>

*"The full scope of the liberty guaranteed by the Due Process Clause ... is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints."*

Moore v. City of East Cleveland (1977) 430 U.S. 494, 502, punctuation changed.

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<sup>2</sup> As with the Procedural Due Process violation, the Equal Protection and Substantive Due Process violations are deprivations of rights grounded in the U. S. Constitution, and thus violate the rights of the Gambords under the Federal Civil Rights Act.

As shown above, the County has approved a substantial number of circular driveways, notwithstanding the alleged existence of a County policy prohibiting them. Accordingly, the County action of invoking the alleged policy in this instance is an “*arbitrary imposition*” of that alleged policy, and thus violates the right of the Gambords to substantive due process of law.

#### IV.

**THE CHANGING OF THE PROJECT TO ELIMNATE THE DECK AFTER  
THE APPROVAL OF THE PEBBLE BEACH ARCHITECTURAL REVIEW  
BOARD HAS DENIED THE GAMBORDS THEIR RIGHT TO BE HEARD  
ON THE CHANGE UNDER (1) COUNTY PROCEDURE AND (2)  
PROCEDURAL DUE PROCESS OF LAW.**

As noted at the beginning of this letter, after the Pebble Beach ARB heard and approved the Hervdejs Project, the project was materially changed by eliminating a deck shown on the house plans.

In consequence, the project is now coming before the Zoning Administrator without the Gambords having received the opportunity to present their views on the changed project as required by (1) the provision of County law under which the Pebble Beach ARB reviewed the project in the first instance, and (2) procedural due process of law. (*See: Scott v. City of Indian Wells, supra*, 6 Cal.3d at 549: local government owes “*adjoining landowners ... a duty to hear their views, and a duty to consider the proposed development with respect to its effect on all neighboring property owners.*”)

#### CONCLUSION

The processing defects described above (1) unlawfully blocked the Del Monte Forest LUAC from considering the “win-win” proposal of Mr. Gambord for a circular driveway, and (2) unlawfully deprived the Pebble Beach ARB from considering the

position of the Gambords on the elimination of the deck initially shown on the plans for the proposed residence.

These serious errors can be easily remedied by (1) a rehearing before the LUAC in which the circular driveway proposal is allowed to be considered and (2) a rehearing before the ARB on the proposed plans as changed by elimination of the deck.

The circular driveway is a "win-win" approach because it would "win" for the Gambords by preserving their privacy - an aspect of "neighborhood character" existing throughout Pebble Beach - while at the same time "winning" for the Hervdejses by conferring a legally-defensible project approval.

It is respectfully requested, therefore, that the Zoning Administrator, before conducting a hearing on the Hervdejs Project application, (1) refer that application back to the Del Monte Forest LUAC for a rehearing on the issue of the circular driveway proposed by Mr. Gambord, and (2) refer that application back to the Pebble Beach ARB for a rehearing on the project as changed by the elimination of the deck.

Respectfully submitted,



BRUCE TICHININ

cc: Joseph Sidor, Monterey County Principal Planner: SidorJ@co.monterey.ca.us  
Charles McKee, Esq., County Counsel: mckeej@co.monterey.ca.us  
Anthony Lombardo, Esq., Atty. for Frank & Michelle Hervdejs:  
tony@alombardolaw.com

# EXHIBIT 1



## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> January 25, 2007	<b>Time:</b> 1:50 P.M	<b>Agenda Item No.:</b> 3
<b>Project Description:</b> Consider a Coastal Administrative Permit and Design Approval (PLN060268/Hevrdejs) to allow the construction of an 849 square foot senior citizen unit with a 324 square foot permeable terrace; a remodel of the existing single family dwelling to include a 94 square foot addition to existing terrace; the addition of a 5-foot, 6-inch stone and wood fence located on the northwest side of the property; and a Variance to exceed the 4,000 square foot allowable impervious surface (4,715 square feet proposed) and 5,000 square foot structural coverage (7,235 square feet proposed) requirements in the Pescadero watershed. Total combined coverage was reduced from 14,145 square feet to 11,950 square feet.		
<b>Project Location:</b> 3930 Ronda Road, Pebble Beach		<b>APN:</b> 008-222-001-000
<b>Planning File Number:</b> PLN060268		<b>Name:</b> Frank J. Hevrdejs, Property Owner /Jon Erlandson, Agent
<b>Plan Area:</b> Del Monte Forest Land Use Plan		<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> : "LDR/1.5 (CZ) [Low Density Residential, 1.5 acres per unit (Coastal Zone)]		
<b>CEQA Action:</b> Categorically Exempt per Section 15303 (a)		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Coastal Administrative Permit and Variance based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**).

**PROJECT OVERVIEW:** The applicant requests a permit to construct a new senior citizen unit in the Del Monte Forest area, coastal zone, along with a remodel to the existing single family home. Proposed development is located within an existing disturbed area. Based on information and materials provided, plus site visits, staff finds that this project has no issues relative to tree removal, archaeological, historic, or biological resources.

The property is located within the Pescadero Watershed of the Del Monte Forest area (§20.147.030.A.1 CIP), which limits coverage to 5,000 square feet for structures plus 4,000 square feet for impervious surfaces (9,000 square feet total). Although adding this senior citizen unit would increase structural coverage from 6,292 square feet to 7,235 square feet, impervious surface coverage is reduced from 7,853 square feet to 4,715 square feet by eliminating one of the driveway entrances to the property (§20.147.090.A.1 CIP). Staff worked with the applicant to obtain a net reduction of 2,195 square feet (11,950 square feet total). A variance is required to exceed the maximum structural and impervious surface coverage.

Staff supports approval of the variance because existing conditions have been brought into conformance to the greatest extent feasible relative to impervious surfaces of the driveway and design of the senior unit. A cistern will also be installed to increase recharge to watershed, which meets the intended policies of the Pescadero Watershed. Staff finds that other properties in the vicinity have been granted variances to reduce overall limits by an average 15% under similar conditions. The proposed project meets all other necessary development standards.



## **EXHIBIT B DISCUSSION**

### **A. INTRODUCTION**

#### **Background**

The subject 1.6-acre (69,220 square foot) property is located in a Low Density Residential, 1.5 acre (LDR/1.5) zoning district at the corner of Cortez and Ronda Roads in Pebble Beach, Del Monte Forest area, coastal zone. Although the property fronts roadways on two sides, entrance is on Ronda Road. The parcel has a gentle slope to the northeast and contains an existing residence with attached garage. Based on information and materials provided, plus site visits, staff finds that this project has no issues relative to tree removal, archaeological, historic, or biological resources.

The parcel is located within the he Pescadero Watershed of the Del Monte Forest area (§20.147.030.A.1 CIP), which limits coverage to 5,000 square feet for structures plus 4,000 square feet for impervious surfaces (9,000 square feet total). The parcel contains an existing two story single family residence with attached garage and currently exceeds allowable lot coverage by 1,292 square feet and exceeds allowable impervious surface by 3,853 square feet (exceeds 5,145 square feet total). There exists a 4,285 square foot circular motor court along with a second 2,938 square foot driveway entrance to the property. The circular driveway was installed in 1968 as part of the original house construction. The proposal includes replacing the 2,938 square foot driveway with permeable gravel and reducing the motor court with 200 square feet of pervious planters.

#### **Project Description**

The applicant requests a permit to construct a senior citizen unit in the Del Monte Forest area, coastal zone, along with a remodel to the existing single family home. Proposed development is located within existing disturbed area.

Monterey County Code requires the following permits for the project:

1. Coastal Administrative Permit and Design Approval to allow the construction of an 849 square foot senior citizen unit with a 324 square foot permeable terrace; allow a remodel of the existing single family dwelling to include a 94 square foot addition to existing terrace; and the construction of a 5 foot 6 inch stone and wood fence located on the northwest side of the property
2. Variance to exceed the 4,000 square foot allowable impervious surface (4,715 square feet proposed) and 5,000 square foot structural coverage (7,235 square feet proposed) requirements in the Pescadero watershed; and

Proposed lot coverage of 10% (7,235 square feet) meets the 15% lot coverage maximum. A proposed floor area ratio of 11% (7,747 square feet) meets the 17.5% floor area ratio maximum.

### **B. PROJECT ANALYSIS**

The proposed project is consistent with applicable development standards except that impervious and structural coverage relating to the Pescadero Watershed are being exceeded. However, total combined coverage was reduced from 14,145 square feet to 11,950 square feet. This is a net reduction of 2,195 square feet (15%).

**FINAL**  
**MONTEREY COUNTY ZONING ADMINISTRATOR**  
**JANUARY 25, 2007**

The Monterey County Zoning Administrator hearing met at 1:35 p.m. in the Board of Supervisors' Chambers of the Monterey County Government Center, 168 West Alisal Street, Salinas, California.

**A. ROLL CALL**

Present:	Zoning Administrator	Jeff Main
	Environmental Health	Roger Van Horn
	Public Works	Chad Alinio
	Water Resources	Al Mulholland
	Recording Secretary	Carol Allen

**B. PUBLIC COMMENT: NONE**

**C. APPROVAL OF MINUTES:**

Minutes of the January 26, 2006, June 29, 2006, July 27, 2006, September 14, 2006, September 28, 2006, October 12, 2006, and January 11, 2007 meetings: Mulholland moved approval of the minutes as presented; seconded by Van Horn, and approved.

**D. SCHEDULED ITEMS**

**1. RUIZ JUAN ALBERTO & BEATRICE (PLN050226)**

COMBINED DEVELOPMENT PERMIT CONSISTING OF 1) A GENERAL DEVELOPMENT PLAN, 2) AN ADMINISTRATIVE PERMIT TO ALLOW AUTO REPAIR FACILITIES AND 3) A USE PERMIT FOR TRUCK TOW & STORAGE OPERATION IN AN EXISTING 10,000 SQ. FT. COMMERCIAL WAREHOUSE WITH 22 PARKING SPACES ON 0.6 ACRE PARCEL. THE PROPERTY IS LOCATED AT 17048 EL RANCHO WAY, SALINAS (ASSESSOR'S PARCEL NUMBER 261-131-039-000), GREATER SALINAS AREA AND BORONDA NEIGHBORHOOD IMPROVEMENT PLAN.

Project Planner, Paula Bradley, recommended a continuance to March 8, 2007 due to improper noticing.

The Zoning Administrator continued the project to March 8, 2007 as recommended by staff.

**2. NUMIRA VINEYARD LLC (PLN060071)**

(NUMIRA VINEYARDS DBA AS MISSION RANCH WINERY) A USE PERMIT REQUEST FOR AN AGRICULTURAL PROCESSING PLANT CONSISTING OF A WINERY (2,801 SQUARE FEET) WITH TASTING ROOM (1,323 SQUARE FEET), AND DELI WITH ACCOMPANYING RETAIL ACTIVITIES (1,538 SQUARE FEET). THE SITE HAS EXISTING FARM AND RESIDENTIAL STRUCTURES THAT WILL BE



DEMOLISHED, REMODELED OR NEWLY CONSTRUCTED IN THE CALIFORNIA MISSION ARCHITECTURAL STYLE. SEVERAL NON-PROTECTED TREES ARE TO BE REMOVED TO ACCOMMODATE PARKING AND VEHICLE PATHWAYS. THE PROJECT IS LOCATED AT 38150 ARROYO SECO ROAD, SOLEDAD (ASSESSOR'S PARCEL NUMBER 183-021-003-000), CENTRAL SALINAS VALLEY AREA.

Project Planner, Taven Kinison Brown, presented project.

Water Resources removed Condition #14, "Submit a letter to the Water Resources Agency, prepared by a registered civil engineer or licensed contractor, certifying compliance with approved drainage plan."

Environmental Health added a condition: "Destroy the existing abandoned well(s) according to the standards found in State of California Bulletin 74 and all its supplements, and Chapter 15.08 of the Monterey County Code. The well shall not be considered abandoned if satisfactory evidence is provided that the well is functional, is used on a regular basis, and does not act as a conduit for contamination of groundwater. (Environmental Health)"

Representative Nancy Isakson agreed to conditions with changes and additions. She discussed having a plaque to recognize the Mirasou family.

After discussion the Mitigated Negative Declaration and Mitigated Monitoring Plan was adopted and the Use Permit was approved by the Zoning Administrator including deletion of Condition #14 and the addition of a condition from Environmental Health as noted above.

### **3. HEVRDEJS FRANK J. (PLN060268)**

COASTAL ADMINISTRATIVE PERMIT AND DESIGN APPROVAL TO ALLOW THE CONSTRUCTION OF AN 849 SQUARE FOOT SENIOR CITIZEN UNIT WITH A 324 SQUARE FOOT PERMEABLE TERRACE; A REMODEL OF THE EXISTING SINGLE FAMILY DWELLING TO INCLUDE A 94 SQUARE FOOT ADDITION TO EXISTING TERRACE; THE ADDITION OF A 5 FOOT 6 INCH STONE AND WOOD FENCE LOCATED ON THE NORTHWEST SIDE OF THE PROPERTY; AND A VARIANCE TO EXCEED THE 4,000 SQUARE FOOT ALLOWABLE IMPERVIOUS SURFACE (4,715 SQUARE FEET PROPOSED) AND 5,000 SQUARE FOOT STRUCTURAL COVERAGE (7,235 SQUARE FEET PROPOSED) REQUIREMENTS IN THE PESCADERO WATERSHED. TOTAL COMBINED COVERAGE WAS REDUCED FROM 14,145 SQUARE FEET TO 11,950 SQUARE FEET. THE PROJECT IS LOCATED AT 3930 RONDA ROAD, PEBBLE BEACH (ASSESSOR'S PARCEL NUMBER 008-222-001-000), DEL MONTE FOREST AREA, COASTAL ZONE.

Project Planner, Liz Gonzales, presented the project.

Architect Jon Erlandson agreed to the conditions.

After discussion the Coastal Administrative Permit was approved by the Zoning Administrator.

4

# EXHIBIT 2



**PLANNING COMMISSION**  
**COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03059

A.P. # 161-552-004-000

**FINDINGS AND  
DECISION**

In the matter of the application of  
**Castlerock Estates, Inc. (PLN030035)**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow the construction of a 6,100 sq. ft. two story single family dwelling with a two story detached garage consisting of 1,250 square foot of under story garage area and a 1,610 second story office area, artist's work studio and swimming pool; a 645 square foot green house; 180 square foot detached deck and trellis; 864 square foot barn; and circular driveway; grading 1,193 cubic yards of cut and 489 cubic yards of fill for the proposed structures; and Design Approval on property located in the RDR/B-8 "VS" (Visually Sensitivity) Zoning District with a 20 foot height restriction, located in the Markham Ranch subdivision on Castle Rock Road, east of Corral de Tierra Road, Toro Area, came on regularly for hearing before the Planning Commission on September 24, 2003.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING: CONSISTENCY & SITE SUITABILITY** - The Castle Rock Use Permit and Design Approval (PLN030035), as described in condition #1 and as conditioned are consistent with the plans, policies, requirements, and standards of the Monterey County General Plan, Toro Area Plan, and Monterey County's Zoning Ordinance (Title 21). The property is located on Lot 4 in the Markham Ranch Subdivision on Castle Rock Road, east of Corral De Tierra Road, in the Toro area. The parcel is zoned "RDR/B-8-VS (20)" or Rural Density Residential, within an area of visually sensitivity and subject to water constraints, with a 20-foot height limit. The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The Planning and Building Inspection staff reviewed the project for consistency with:
    - Monterey County General Plan policies
    - Toro Area Plan policies
    - Chapter 21.46, Regulations for Visually Sensitive areas or the "VS" Zoning District of the Monterey County Zoning Ordinance (Title 21)
    - Regulations for the Rural Density Residential Zoning District of the Monterey County Zoning Ordinance (Title 21).
  - (b) The application and plans submitted for the Use Permit and Design Approval in project file PLN030035 in the Monterey County Planning and Building Inspection Department.
  - (c) The Toro Land Use Advisory Committee (LUAC) reviewed the proposal on June 9, 2003, and voted 5 to 0 to recommend approval.
  - (d) An Archaeological Report on file for this parcel was prepared for this project by Archeological Consulting on March 17, 2003. The report concludes that there is no evidence of cultural resources within the area currently proposed for development. A condition is included to stop work in the event cultural resources are discovered during grading and/or construction activity.
  - (e) There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The Monterey County Planning and Building

Inspection Department, Water Resources Agency, the Salinas Rural Fire Protection District, Public Works Department and Environmental Health Division have reviewed the project and the site. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

- (f) A Geotechnical Investigation was prepared for this site by Haro, Kasunich and Associates, Inc dated August, 2003. The report concludes that the site is suitable for the proposed development provided recommendations in the report are incorporated in the project design.
- (g) The project is located in a "B-8" zoning overlay district which precludes second (habitable) units including, but not limited to, senior citizen and caretaker units. This is due to poor water quality and quantity in certain hydrogeological basins in the Toro area. Several accessory structures are proposed as part of this project, none of which are considered habitable.

**2. FINDING: CEQA (Exempt) -** The proposed project will not have a significant environmental impact.

- EVIDENCE:**
- (a) CEQA Section 15061 (b) (3). The applicant has designed the project and proposes landscape screening to ensure that the development will not have a significant adverse visual impact.
  - (b) CEQA Section 15303 (a). No potentially adverse environmental impacts were identified during review of the proposed project.
  - (c) The project as condition is consistent with the conclusions and mitigations contained in the certified Markham Ranch Subdivision EIR No. 81-114.

**3. FINDING: VISUAL IMPACTS -** The project as proposed is consistent with policies of the Toro Area Plan dealing with visual resources and with regulations in Title 21 for development within an area of Visual Sensitivity or "VS" Zoning District. The development as designed and as conditioned will not have a significant adverse visual impact on the public viewshed.

- EVIDENCE:**
- (a) The on-site investigation by the project planner, pursuant to Chapter 21.46.030.B. and the Area Plan policies for development located in a visually sensitive area.
  - (b) Based on the flagging and staking in place and the planner's site visit, the development has the potential to create a substantial adverse visual impact when viewed from an established scenic corridor (i.e., Laureles Grade Road & Corral De Tierra Road). The development may also visually impact a well-known land feature known as Castle Rock.

All of the structures would be located within the buildable area outside of the existing scenic easements. Existing vegetation will screen a portion of the development. Additional landscape screening is required to minimize visual impacts as a result of the remaining structures while protecting views of Castle Rock. This is primarily due to the fact that the overall height of the structures was not lowered by utilizing a deeper bench cut into the hillside. As a result portions of the two-story structures will be more visually prominent, potentially impacting views of Castle Rock. However, staff has determined that this project as designed and conditioned will reduce the visibility of the proposed structures and is consistent with the intent of Toro Area Plan land use policies that protect the visual resources such as Castle Rock as well as designated scenic corridors from impacts.

- (c) Materials in project file PLN030035



4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and other applicable provisions of Title 21. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.  
**EVIDENCE:** (a) Sections 21.14, 21.44 and 21.46 of the Monterey County Code (Zoning).  
(b) Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
5. **FINDING: HEALTH and SAFETY** - The establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.  
**EVIDENCE:** Preceding findings and supporting evidence.
6. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.  
**EVIDENCE:** Section 21.80.040.C of Title 21 (Zoning Ordinance).

### **DECISION**

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. Use Permit consisting of: 1) construction of a two-story single family dwelling (4,000 sq. ft. first story and 2,100 sq. ft. second story) with 180 square feet of attached trellis and decking; 2) a two-story detached structure consisting of a 1,250 square foot first-story garage, and a 1,610 second-story non-habitable office artist's work studio and a swimming pool for personal use; 3) a 645 square foot green house; 4) an 864 square foot barn; 5) circular driveway; 6) grading (1,193 cubic yards of cut & 489 cubic yards of fill) located on a 24.5 acre lot; and Design Approval. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless the appropriate authorities approve additional permits. **(Planning and Building Inspection)**

### **Prior to the Issuance of Grading and Building Permits:**

2. The applicant shall record a notice, which states: "A permit (Resolution No. 03059) was approved by the Planning Commission for Assessor's Parcel Number 161-552-004-000 on September 24, 2003. The permit was granted subject to 25 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Storm-water runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be

constructed in accordance with plans approved by the Water Resources Agency. **(Water Resources Agency)**

4. Prior to issuance of a building permit, provide to the Director of Environmental Health written certification, and any necessary certification from State agencies that the California Water Service Company can and will supply sufficient water flow and pressure to comply with both Health and fire flow standards. **(Environmental Health)**
5. Fire Department notes shall be printed on approved plans. **(Fire District)**
6. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for *"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval, and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection."* **(Fire District)**

**Prior to Occupancy or Final Building Inspection:**

7. The site shall be landscaped. At least three weeks prior to final inspection, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall include adequate vegetation to minimize structures visible from Los Laureles Grade and Corral de Tierra Road and to ensure views of Castle Rock are protected. The landscape plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, either landscaping shall be installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**
8. Prior to final inspection, the geologic consultant shall provide certification that all development has been in accordance with the geotechnical investigation prepared by site by Haro, Kasunich and Associates, Inc., dated August, 2003. **(Planning and Building Inspection)**
9. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. **(Fire District)**
10. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roads shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. **(Fire District)**
11. Roadway turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper at each end. **(Fire District)**
12. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds



800 feet, turnouts shall be provided at no greater than 400 foot intervals. **(Fire District)**

13. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. **(Fire District)**
14. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Fire District)**
15. Unobstructed vertical clearance shall be not less than 15 feet for all access roads. **(Fire District)**
16. Size of letters, numbers, and symbols for street and road signs shall be a minimum 4 inch letter height, 1/2 inch stroke, and shall be a color that clearly contrasts with the background color of the sign. All numerals shall be Arabic. **(Fire District)**
17. All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address. When multiple **(Fire District)**
18. Occupancies exist within a single building; each individual occupancy shall be separately identified by its own address. **(Fire District)**
19. All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, or when a 30 foot minimum setback cannot be reached, alternate fuel modification standards may be imposed by the local fire jurisdiction to provide the same practical effect. **(Fire District)**
20. Fire sprinklers shall be installed in attached garages. **(Fire District)**
21. In high and very high fire hazard areas, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be Class A or Class B, with fire resistive materials, or as approved by the Reviewing Authority. This requirement shall apply to all new construction and existing roofs that are repaired so as to affect 50 percent or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel. **(Fire District)**
22. When construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. **(Fire District)**
23. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
  - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets

that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculation system.

- b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. **(Water Resources Agency)**

**Continuous Permit Conditions:**

24. If 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 it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
25. All landscaped areas shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 24th day of September, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, Diehl, Gonzalves, Rochester, Wilmot  
 NOES: None  
 ABSENT: None

Original Signed By:

JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

# EXHIBIT 3



## Monterey County Planning Commission

<b>Meeting Date/Time:</b> January 14, 2004 at 9:15 a.m.		<b>Agenda Item:</b> 3
<b>Project Description:</b> Combined Development Permit (PLN030489/CATANIA) consisting of a Coastal Administrative Permit and Design Approval for a 7,617 square foot, two-story single family dwelling; a Coastal Development Permit for the removal of 24 Monterey pine trees; and a Variance to increase the allowable structural coverage from 5,000 square feet to 5,359 square feet in the Pescadero Watershed.		
<b>Address:</b> 1418 Viscaino Road, Pebble Beach		
<b>Assessor's Parcel Number:</b> 008-231-010-000		
<b>Plan Area:</b> Del Monte Forest Area, Coastal Zone		<b>Flagged and Staked:</b> Yes:
<b>Zoning Designation:</b> LDR/1.5-D (CZ)		
<b>CEQA Action:</b> Exempt (§15303, Class 3(a))		
<b>Date Application Deemed Complete:</b> November 13, 2003		
<b>Department:</b> Planning and Building Inspection		

**RECOMMENDATION:** Staff recommends that the Planning Commission approve PLN030489 (Catania) based on Findings and Evidence (Exhibit B) and subject to proposed Conditions (Exhibit C)

**OVERVIEW:** Giuseppe and Nella Catania request permits to construct a new, 7,617 square foot, 2-story single family dwelling on a vacant 1-acre lot in the Del Monte Forest area, coastal zone. Development includes tree removal and a variance to increase allowable structural coverage in the Pescadero Watershed.

The application proposes to remove 31 Monterey pine trees; however, trees that are less than 12-inches in diameter and dead trees do not require a coastal development permit (§20.147.050.A.1.c CIP). In addition, staff has added a condition to modify the driveway in order to preserve the landmark tree and one 22-inch pine. Although a total of 29 trees will be removed, the actual number of trees being authorized for removal under this permit would be 17. Staff finds that the project as designed and conditioned minimizes tree removal.

The property is located within the Pescadero Watershed of the Del Monte Forest area (§20.147.030.A.1 CIP), which limits coverage to 5,000 square feet for structures plus 4,000 square feet for impervious surfaces (9,000 square feet total). The project proposes structural coverage of 5,359 square feet and 3,159 square feet of impervious surface coverage (8,518 square feet total). Although this project exceeds the structural limit and the driveway area could be reduced (impervious surface), the total combined structural and impervious surface coverage as proposed is less than 9,000 square feet. Staff finds that the combined coverage meets the intent of this Pescadero Watershed policy and that other properties in the area have been a granted similar variance under similar conditions. Therefore, staff supports approval of the variance.

Staff finds that this project is categorically exempt from CEQA review pursuant to §15303, Class 3 for a new single family dwelling. There are no unusual circumstances related to the project or the site. No unresolved issues remain.

The proposed residence consists of a 2-story structure with an attached 3-car garage, patio and terrace areas, property wall and driveways. This design includes 5,274 square feet on the first floor, including the garage, plus 2,343 square feet on the second floor. The actual structural coverage including covered outdoor areas comes to 5,359 square feet. A terrace and patio covers 1,342 square feet with impervious surface with an additional 1,817 square feet covered by driveway pavement. The residence is consistent with applicable development standards, except for structural coverage relating to the Pescadero Watershed. See discussion below.

### TREE REMOVAL

The application proposes to remove 31 Monterey pine trees, including:

- Seven (7) trees less than 12-inches in diameter,
- Eighteen (18) trees between 12-24-inches in diameter,
- One (1) 27-inch landmark Monterey pine, and
- Five (5) dead trees.

Staff finds that the footprint of the house is located to minimize tree removal and relocation would not reduce the number of trees removed. There are two driveways proposed. One would provide direct access to the garage and the other to the front entryway. They are both designed with a minimum 12-foot width for fire requirements. However, the design also requires area for a turn-around at the end.

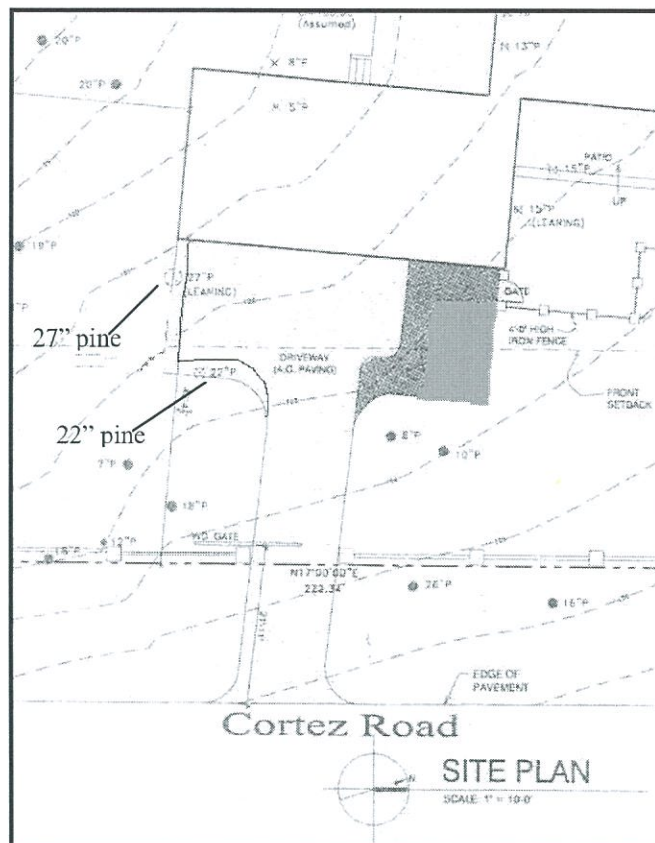


Figure 2 – Garage Driveway Modifications



A Forest Management Report, prepared by Rob Cain, addresses the tree conditions on the project site. This report notes that the 27-inch landmark pine and a nearby 22-inch pine are located on the edge of the garage driveway, but are not within the building footprint. Although some uprooting of the landmark tree towards the proposed garage is evident, minor modifications to the driveway design would avoid these two trees while still allowing for sufficient turnaround space (Figure 2 – Garage Driveway Modifications, previous page). Staff recommends including a condition that requires the applicant to modify the garage driveway in order to preserve these two trees (Condition 5).

Staff finds that the project as designed and conditioned minimizes tree removal. Eliminating the secondary driveway to the front door could omit removal of five trees; however, two of these trees are dead and the circular driveway has been designed to retain three trees in the center of the turn-around. Although a total of 29 trees will be removed, the actual number of trees being authorized for removal under this permit would be 17. The seven trees that are less than 12-inches in diameter plus the five dead trees do not require a coastal development permit (§20.147.050.A.1.c CIP). In addition, the proposed driveway modifications omit removal of two trees. Over 100 existing trees on the property will remain.

### **PESCADERO WATERSHED**

Since the property is located within the Pescadero Watershed of the Del Monte Forest area (§20.147.030.A.1), it is subject to a 5,000 square foot limitation on structural coverage. As designed, the project proposes structural coverage that totals 5,359 square feet.

Projects in the Pescadero Watershed area are also subject to a limitation of 4,000 square feet of impervious surfaces coverage. Since the house fronts on two roads, the applicant proposes two driveways with a total 1,817 square feet of paving. One driveway leads to the front entry (approximately 900 square feet of paving) and the other to the garage (approximately 917 square feet of paving). In addition, 1,342 square feet of terraces and patios create a total of 3,159 square feet of impervious surface coverage.

An additional area of approximately 800 square feet utilizes pervious material. The amount of impervious surface could be reduced by eliminating a second driveway and circular turn-around to the front door. However, the proposed project does not exceed the maximum 4,000 square feet of impervious surface allowed.

Although the proposed project exceeds the structural coverage limitation by 359 square feet, the total combined surface coverage is 8,518 square feet. Staff finds that keeping the project under a combined 9,000 square foot limitation meets the intent of the Pescadero Watershed policy. In addition, similar variances have been granted to other properties in the area under similar conditions. Therefore, staff supports approval of the variance.

**LUAC**

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 04009

A. P. # 008-231-010-000

In the matter of the application of  
**Giuseppe & Nella Catania (PLN030489)**

**FINDINGS & DECISION**

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a Coastal Administrative Permit and Design Approval for a 7,617 square foot, two-story single family dwelling and fence; a Coastal Development Permit for the removal of 26 Monterey pine trees (including 7 trees less than 12" in diameter, 18 trees between 12" and 24", and one 27" landmark pine); and a Variance to increase the allowable structural coverage from 5,000 square feet to 5,359 square feet in the Pescadero watershed. Total structural and impervious surface coverage of 8,518 square feet meets the combined 9,000 square foot limitation. The property is located at 1418 Viscaino Road, Pebble Beach, at the southwest corner of the intersection of Viscaino Road and Cortez Road, Del Monte Forest area, Coastal Zone, came on regularly for hearing before the Planning Commission on February 25, 2004.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

1. **FINDING: CONSISTENCY.** The Project, as conditioned is consistent with applicable plans and policies, the Del Monte Forest Land Use Plan, Coastal Implementation Plan (Part 5), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

**EVIDENCE:** (a) Plan Conformance. PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Del Monte Forest Land Use Plan (LUP), Part 5 of the Coastal Implementation Plan (CIP), and Part 6 of the Coastal Implementation Plan (CIP). PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and have determined that the project is consistent with the Del Monte Forest Land Use Plan, which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN030489.

(b) Land Use. The project for a single family home is an allowed use, in accordance with Section 20.14.040 CIP.

(c) Zoning Consistency. The parcel is zoned Low Density Residential, 1.5 units/acre, Design Control District, Coastal Zone ("LDR/1.5-D (CZ)"). The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 20.14.060 CIP.

(d) Tree Removal. See Finding #6.

(e) Pescadero Watershed. See Findings #7.



(f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN030489.

(g) Land Use Advisory Committee (LUAC). The Del Monte Forest Land Use Advisory Committee recommended denial of the project by a vote of 4 to 2 LUAC meeting minutes dated November 6, 2003. The LUAC reviewed a version of the project that was slightly larger and included a variance for the Pescadero Watershed. The LUAC concerns are addressed below:

- *Size & Bulk* – The committee reviewed the original design, which was slightly larger than the redesign by approximately 300 square feet. The house design meets development standards for allowable size and bulk and the variance has been eliminated. The maximum floor area ratio (FAR) for the LDR/1.5 zoning district in the Del Monte Forest area is 17.5%. The proposed total floor area of the house of 7,366 constitutes a FAR of 16.9%. The house also meets the maximum height of the zoning district of 30 feet. Lots in the neighborhood vary in size from 1-acre to 1.4-acres so the property is not substantially smaller than other properties. Size and bulk are controlled through FAR and lot coverage standards, which the project complies with.
- *Neighborhood Compatibility* - Colors and materials for the house include a clay tile roof and yellowish-cream colored, plaster walls, both of which are compatible with residences in the area. The house is designed to almost the maximum floor area ratio and maximum height allowed, but is not unusually large for the area. Project planner site visit on October 6, 2003, November 25, 2003 and discussions with LUAC members.
- *Difficult Design* – This concern was related to the second-story guest bedroom over the garage which some of the LUAC members felt was out of place for the design and neighborhood. The second story over the garage is visually separate from the rest of the second story over the main part of the house, but it is not an unusual feature or design and is consistent with the overall house size and two-story design. Other houses in the area also have tall garages or are two stories. In addition, there was a lack of consensus among the LUAC members and some members felt the design was not incompatible with the area.

(h) Site Visit. Project planner conducted an on-site inspection on October 6, 2003 and November 25, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

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

**EVIDENCE:** (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Pebble Beach Community Services District. Conditions recommended have been incorporated.

(b) Technical reports by outside archaeology and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concurs. Reports are in Project File PLN030489 include:



- “Preliminary Archaeological Reconnaissance” prepared by Archaeological Consulting, Salinas, CA, May 9, 2003.
  - “Geotechnical Soils-Foundation and Geo-Seismic Report” prepared by Grice Engineering and Geology, Inc., Salinas, CA, January, 2003.
  - “Forest Management Plan,” prepared by Robert Cain, Salinas, CA, dated September 12, 2003.
- (c) Staff conducted an on-site visit on October 6, 2003 and November 25, 2003 to verify that the site is suitable for this use.
- (d) Necessary public facilities are available and will be provided.

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

**EVIDENCE:** (a) CEQA Guidelines categorically exempt single-family dwellings (CEQA Guidelines §15303, Class 3). Class 3 projects consist of new structures and include single-family dwellings and accessory structures in a residential area. Grading for the project is less than 100 cubic yards and the slope of the property is less than 10 percent (10%). This permit allows for the removal of 24 trees. All 17 trees over 12-inches in diameter will be replaced at a 1:1 ratio in accordance with LUP policies as a condition of approval and over 100 existing trees on the property will remain as part of the project design.

(b) No adverse environmental effects were identified during staff review of the development application during site visits on October 6, 2003 and November 25, 2003.

(c) There are no unusual circumstances related to the project or property.

4. **FINDING: NO VIOLATIONS.** The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.

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

5. **FINDING: PUBLIC ACCESS:** The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access.

(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.

(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(d) Staff site visit on October 6, 2003 and November 25, 2003.

6. **FINDING: TREE REMOVAL:** The subject project minimizes tree removal in accordance with the applicable goals and policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan (Part 5).

**EVIDENCE:** (a) Policy 35 of the Del Monte Forest Land Use Plan states that *“new residential development, including driveways and parking areas, shall be sited and designed to minimize cutting of trees, especially trees screening the home from neighboring properties.”* The project as designed and conditioned reduces tree removal to 24 Monterey pines.

- The residence is situated in the most open area of the site. Relocating the proposed house as designed would not save additional trees. Although there are two driveways, both driveways are short, provide direct access, and are the minimum width necessary to meet Fire requirements.

- The front driveway is sited and designed to minimize impacts to live trees. It requires removal of three live trees, but is located where there are already two dead trees and retains three live pines in the center area. The garage driveway was modified to retain two large Monterey pine trees, including a 27-inch landmark tree.

- Over 100 existing trees on the property will remain. Trees on the perimeter of the property that will screen the development are not proposed for removal.

- Seventeen trees over 17” in diameter will be removed. In addition, seven trees less than 12” in diameter and five (5) dead trees, which do not require a discretionary permit, will also be removed.

(b) Measures to protect trees during construction have been incorporated as a condition pursuant to Policy 34 and include wrapping trunks, fencing off clusters of trees.

(c) A condition has been incorporated requiring replacement of all removed trees that are 12-inches or more in diameter at a minimum ratio of 1:1 pursuant to Policy 36.

(d) A condition has been added for the applicant to record a notice of the Forest Management Plan and that any tree removal is in accordance with the approved plan.

(e) Forest Management Plan prepared by Robert Cain, dated September 12, 2003. Report is in Project File PLN030489.

(f) Staff site visit on October 6, 2003 and November 25, 2003.

7. **FINDING: PESCADERO WATERSHED POLICY.** The project is not consistent with Section 20.147.030.A.1 limiting structural coverage to 5,000 square feet, including main and accessory structures, but is consistent with the limitation of additional impervious surface coverage up to 4,000 square feet. It also meets the total limitation of 9,000 square feet for the Pescadero, Seal Rock Creek and Sawmill Gulch Watersheds and the smaller unnamed watersheds that drain into the Carmel Bay Area of Special Biological Significance.

**EVIDENCE:** (a) The project application, including the site plan, contained in file PLN030489 proposes structural coverage of 4,996 square feet and impervious surface coverage of 3,986 square feet for a total of 8,982 square feet.

7

(b) A condition has been added by the Water Resources Agency for a final drainage plan in order to conform to Policies 1, 2, & 6 of the Del Monte Forest LUP, relating to drainage issues and addressing on-site and off-site impacts and retention facilities.

8. **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) Preceding findings and supporting evidence.

9. **FINDING: APPEALABILITY.** The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

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

(b) Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 (Coastal Commission). The project involves a conditional use permit to allow removal of trees. In addition, the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway 1).

### **DECISION**

It is the decision of the Planning Commission of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

**PASSED AND ADOPTED** this 25th day of February, 2004, by the following vote:

AYES:	Errea, Sanchez, Hawkins, Padilla, Vandever, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES:	None
ABSENT:	None
ABSTAIN:	None

Original Signed By:

JEFF MAIN, SECRETARY

COPY OF THIS DECISION MAILED TO APPLICANT ON

8

# EXHIBIT 4



## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> February 14, 2008	<b>Time:</b> P.M	<b>Agenda Item No.:</b>
<b>Project Description:</b> Combined Development Permit consisting of; 1) A Coastal Administrative Permit to allow the demolition of an existing 4,584 square foot single family dwelling; 2) A Coastal Development Permit to allow an existing 1,323 square foot guesthouse to remain without a main structure; and 3) A Coastal Development Permit to allow development within 750 feet of a known archaeological resource.		
<b>Project Location:</b> 3296 Seventeen Mile Drive, Pebble Beach		<b>APN:</b> 008-455-015-000
<b>Planning File Number:</b> PLN070024		<b>Name:</b> Chappellet Et Al , Property Owner Dave Sweigert, Agent
<b>Plan Area:</b> Del Monte Forest Land Use Plan		<b>Flagged and staked:</b> No
<b>Zoning Designation :</b> LDR/1.5-D (CZ) [Low Density Residential, 1.5 acres per unit with a Design Control Overlay (Coastal Zone)]		
<b>CEQA Action:</b> Mitigated Negative Declaration		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Zoning Administrator:

1. Adopt the Mitigated Negative Declaration (**Exhibit H**) with Mitigation Monitoring and Reporting Plan (**Exhibit D**) and
2. Approve the Combined Development Permit (PLN070024) based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**).

**PROJECT OVERVIEW:** The proposed project consists of the demolition of an existing 4,584 square foot single family dwelling. There is an existing 1,323 square foot, non-conforming guesthouse that is not proposed for removal and will remain on site. The project site is approximately 2.6 acres, located on the corner of Cypress Drive and Seventeen Mile Drive in Pebble Beach. Staff's review focused on consistency with the Local Coastal Plan (LCP) and California Environmental Quality Act (CEQA) policies. An Initial Study was prepared for the subject development and a Mitigated Negative Declaration (MND) was circulated. There are two areas of discussion in the MND including Cultural Resources and Land Use Planning. See **Exhibit B** for a more detailed discussion.

**EXHIBIT B**  
**PROJECT DISCUSSION**  
**PLN070024 (Chappellet)**

**I. PROJECT SETTING AND DESCRIPTION**

**Setting**

The project is located at 3296 Seventeen Mile Drive in Pebble Beach. The site is 2.74 acres in size, located south of the Pebble Beach Lodge fronting on the intersection of Cypress Drive and 17 mile Drive and backing up to the Stillwater Cove and the Pacific Ocean. Currently three (3) structures exist on the site including a single family dwelling, a detached guesthouse, and a carport. These structures are all accessed by a long circular driveway with two access points off 17 mile drive. The drive way and a large portion of the lot are heavily landscaped with thick mature shrubs, trees, and lawn.

**Project Description**

The proposed project consists of the demolition of an existing 4,584 square foot single family dwelling. There is an existing non-conforming guesthouse that is not proposed for removal and will remain on site.

**II. ANALYSIS**

**Development Standards**

The site is designated for low density residential development (LDR/I-D(CZ)). Not all development standards in this section of Title 20 apply to this project as no new structures are proposed (i.e. setbacks & height). Proposed demolition of the single family dwelling and retention of a guesthouse would create a situation described in Title 20 Section 20.14.050.S as an accessory structure/use prior to establishment of a main structure/use which requires a Coastal Development Permit in each case. The issue, supported by Environmental Health, is that the guesthouse cannot be used for dwelling purposes while no main structure exists because it does not contain a kitchen or cooking facilities (California Health and Safety code, definition of a dwelling unit Section 18003.3). Mitigations have been included in **Exhibit D**, to restrict use of the guesthouse while no main house exists (Condition #14).

**Cultural Resources**

Cultural Resources evaluated during project review include the historic integrity of the structure to be demolished and the potential for encountering archaeological resources during foundation removal. A report prepared by Anthony Kirk Ph.D was submitted to the Planning Department indicating that the structure to be demolished, built in 1915, has lost its historic integrity due to some additions and alterations over the years. The report contained a short discussion on the associated guesthouse that is proposed to remain saying, without making a definite determination on the eligibility for listing that the guesthouse appears to be in fair to poor condition. Due to the potentially historic nature of the structure(s) at the site, staff referred the application to the Historic Resource Review Board (HRRB) for a recommendation to the Zoning Administrator. The HRRB unanimously recommended approval of the project subject to conditions that the guesthouse be protected from damage and that future development applications be referred to them for review and recommendation. These conditions have been incorporated in the conditions of approval **Exhibit D** (Condition #'s 11 & 12).



RESOLUTION NO. 070024

A. P. # 008-455-015-000

In the matter of the application of  
**CYRIL DONN CHAPPELLET TR ET AL (PLN070024)**

**FINDINGS AND DECISION**

to allow a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a consisting of: 1) a Coastal Administrative Permit to allow the demolition of an existing 4,584 square foot single family dwelling; 2) a Coastal Development Permit to allow an existing 1,323 square foot guesthouse to remain without a main structure; and 3) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource. The property is located at 3296 Seventeen Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan and came on regularly for meeting before the Zoning Administrator on February 14, 2008.

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

**FINDINGS OF FACT**

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Del Monte Forest Land Use Plan, Coastal Implementation Plan Part 5, and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for development.

- EVIDENCE:** (a) Plan Conformance The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. Areas of concern were regarding Cultural Resources and the accessory structure that will remain with no main structure. No communications were received during the course of review of the project indicating any other inconsistencies with the text, policies, and regulations in these documents.
- (b) Zoning Consistency The property is located at 3296 Seventeen Mile Drive, Pebble Beach (Assessor's Parcel Number 008-455-015-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential, 1.5 acres per unit with a Design Control overlay (Coastal Zone) ("LDR/1.5-D (CZ)") which allows for residential use however the proposed development consists of the demolition of an existing single family residence and no use of the property is proposed. Therefore, the proposed development is suitable.
- (c) Site Visit The project planner conducted a site inspection on August 28, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
- (d) Archaeological Resources The project is located in an area mapped as high in archaeological sensitivity with known resources in close proximity (20.147.080.B.1). The proposed development will require the removal of the foundation and some flat work (e.g. walkways) which will disturb the underlying soils. Due to the possibility of encountering archaeological resources, it was determined through the Cultural Resource Evaluation prepared by Archaeological Resource Management, submitted for the project and the Mitigated Negative Declaration (MND) that an Archaeological Monitor should be present and observe all earth disturbing processes (20.147.080.D.1.a). This mitigation has been included in the Mitigation Reporting and Monitoring Program (Condition #13).

- (e) Historic Resources The house proposed for demolition was built in 1915 and was known as Wynanspray. A Phase I historic evaluation, prepared by Anthony Kirk, PhD was submitted for the development. The evaluation revealed that Wynanspray had been altered over the years and has lost its integrity and does therefore not appear to be eligible for listing under the local, state, or federal criteria. There was mention in the report of condition, fair to poor, of the guesthouse that is proposed to remain. Because of the possibility of dealing with historic structures the project was referred to the Historic Resource Review Board (HRRB).
- (f) HRRB On September 6, 2007 the Monterey County Historic Resource Review Board heard the Chappellet project (PLN070024) recommending approval by a vote of 5-0-2 with two conditions. Conditions recommended included protection of the guesthouse during construction and referral of future projects at the site to the HRRB for review and recommendation. These conditions have been incorporated into the Mitigation Monitoring and Reporting Plan (Condition #'s 11 & 12).
- (g) Accessory Structure Prior to Main Monterey County Zoning Ordinances Title 20 Section 20.14.050.S requires a Coastal Development Permit for "Accessory structures and uses prior to establishment of main use or structure." Demolition of the main structure would leave an accessory structure and use without a main structure (the guesthouse). The Environmental Health Division recognized this situation and recommended a condition based on California Health and Safety code that the guesthouse cannot be used as a dwelling because it does not contain a kitchen or cooking facilities. Mitigations have been included to restrict use of the guesthouse while no main house exists (Condition #14).
- (h) Biological Resources The project site is located on the corner of Cypress and Seventeen Mile Drive fronting on the Pacific Ocean. The parcel is just outside of the Native Cypress Habitat as shown on Figure 2 of the Del Monte Forest LUP and contains a few Cypress trees. The site has been improved and largely disturbed with structures, a looping driveway, and extensive landscaping, including large grass areas. Access to the dwelling proposed for demolition is via an existing driveway that contains areas large enough for staging of equipment. The area immediately surrounding the house has all been landscaped and therefore there are no impacts to sensitive biological resources foreseen. Demolition of the existing single family dwelling will not require the removal of indigenous vegetation and land disturbance is limited to the minimum by the nature of the project and conditions of approval (DMF LUP 20.147.040.B.8). Future development will need to be evaluated relative to impacts and maintenance of resource at the site.
- (i) LUAC The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On June 7, 2007 the Del Monte Forest LUAC recommends approval of the project without stating any comments or concerns by a vote of 4-0.
- (j) Application 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 PLN070024.

**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 following departments and agencies: RMA - Planning Department, Pebble Beach Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
- (b) Technical reports by outside archaeological and historical consultants indicated that there are no physical or environmental constraints that would indicate that the site is not



suitable for the use proposed. County staff concurs. The following reports have been prepared:

- i. "Cultural Resource Evaluation" (LIB070188) prepared by Archaeological Resource Management, San Jose, CA, April 5, 2007.
  - ii. "Primary Record (Phase I Historic Report)" (LIB070199) prepared by Anthony Kirk, Ph.D, Santa Cruz, CA, April 19, 2006.
- (c) Staff conducted a site inspection on August 28, 2007 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN070024.

3. **FINDING: CEQA INITIAL STUDY/MITIGATED NEGATIVE DECLARATION:** - On the basis of the whole record before the Zoning Administrator there is no substantial evidence that the proposed project as designed, conditioned, and mitigated will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:** (a) Initial Study. The Resource Management Agency – Planning Department prepared an initial study pursuant to CEQA. The Initial Study identified the potential for impacts to cultural resources and land use planning on the site but the applicant has agreed to proposed mitigation measures that avoid or mitigate the effects to a point less than significant level. Subsequently a Mitigated Negative Declaration was prepared. The Initial Study reflects the independent judgment and analysis of the County and is hereby incorporated by reference.

- (b) Mitigated Negative Declaration. A Mitigated Negative Declaration was filed with the County Clerk on December 5, 2007, noticed for public hearing and circulated to the State Clearing House from December 6, 2007 to January 6, 2008. Among the studies, data, and reports analyzed as part of the environmental determination are the following:
1. Phase I Historic Analysis, prepared by Anthony Kirk Ph.D (April 19, 2006).
  2. Cultural Resource Evaluation, prepared by Archaeological Resource Management (April 5, 2007).

- (c) Comments No comments were received during the comment period from December 6, 2007 through January 6, 2008.

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

**EVIDENCE:** (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

5. **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) Preceding findings and supporting evidence.

6. **FINDING: PUBLIC ACCESS:** The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access.  
(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.  
(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.  
(d) Staff site visit August 28, 2007.

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

**EVIDENCE:** (a) Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).  
(b) The project may be appealed to the California Coastal Commission pursuant to Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 because the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway One).

### DECISION

**THEREFORE**, it is the decision of the Zoning Administrator of the County of Monterey that the Mitigated Negative Declaration and Program for Mitigation Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

**PASSED AND ADOPTED** this 14th day of February, 2008.

  
JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON FEB 25 2008

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE  
MAR - 6 2008

6

# EXHIBIT 5

**FINAL**  
**MONTEREY COUNTY ZONING ADMINISTRATOR**  
**THURSDAY, DECEMBER 10, 2009**

**MINUTES**

**1:30 P.M.**

**A. ROLL CALL - 1:30 P.M**

Present: **Mike Novo, Zoning Administrator**  
Michael Trapani, Water Resources Agency  
Janna Faulk, Environmental Health  
Chad Alinio, Public Works

**B. PUBLIC COMMENTS - None**

**C. APPROVAL OF MINUTES:** August 27, October 8, October 29, and November 12, 2009

Only the August 27, 2009 minutes were approved by the Zoning Administrator

**D. DESIGN APPROVALS**

1. **1:30PM - DUMONT MARK T & CARINA E DUMONT - DA080092**  
PLANNING AREA: GREATER MONTEREY PENINSULA AREA. PROJECT  
PLANNER: ELISA CAVALIERE. ENVIRONMENTAL STATUS:  
CATEGORICALLY EXEMPT. PROJECT DESCRIPTION: DESIGN APPROVAL TO  
ALLOW THE DEMOLITION OF AN EXISTING 450 SQUARE FOOT DETACHED  
GARAGE; AND FOR THE CONSTRUCTION OF A NEW 462 SQUARE FOOT  
ATTACHED GARAGE, A 1,702 SQUARE FOOT FIRST FLOOR ADDITION, A 27  
SQUARE FOOT COVERED ENTRY PORCH, 140 SQUARE FEET OF GARDEN  
WALLS, A 15 LINEAR FOOT 8-FOOT HIGH TRELLIS, AN 80 SQUARE FOOT 2ND  
STORY BALCONY ADDITION, A 607 SQUARE FOOT INTERIOR REMODEL, A  
NEW EXTERIOR FIRE PIT AND FOUNTAIN, A NEW WROUGHT IRON GATE  
AND STONE PILASTERS TO AN EXISTING TWO-STORY SINGLE FAMILY  
DWELLING. COLORS AND MATERIALS TO MATCH EXISTING RESIDENCE  
AND AS CONDITIONED BY THE HISTORIC RESOURCES REVIEW BOARD. THE  
PROPERTY IS LOCATED AT 988 CUSTOMS ROAD, PEBBLE BEACH  
(ASSESSOR'S PARCEL NUMBER 007-263-017-000), GREATER MONTEREY  
PENINSULA AREA.

Project planner Craig Spencer presented project.

Zoning Administrator made correction to Finding 1 (HRRB.)

No public comment.

The Zoning Administrator approved project.

1



Applicant stated that the trees were planted for screening and was part of a previous permit. The Zoning Administrator asked that a landscape condition be added and the applicant concurred. Staff stated there are some additional comments regarding the old permit.

No public comment.

The Zoning Administrator approved the project with all amendments and revisions.

4. **1:40PM - J & J ARMSTRONG LP (REG WATER) - PLN090193**  
PLANNING AREA: GREATER MONTEREY PENINSULA AREA. PROJECT PLANNER: ERIC SNIDER. ENVIRONMENTAL STATUS: ENVIRONMENTAL IMPACT REPORT PREPARED. PROJECT DESCRIPTION: COMBINED DEVELOPMENT PERMIT CONSISTING OF A: 1) USE PERMIT TO ALLOW INSTALLATION OF A RECLAIMED WATER PIPELINE FOR THE REGIONAL URBAN WATER AUGMENTATION PROJECT ACROSS THE ARMSTRONG RANCH AND; 2) AN ADMINISTRATIVE PERMIT FOR DEVELOPMENT IN A SITE REVIEW DISTRICT. (ASSESSOR'S PARCEL NUMBERS 175-011-031-000 & 175-011-038-000), GREATER MONTEREY PENINSULA AREA PLAN.  
RECOMMENDED ACTION: APPROVE PROJECT

Project Planner Eric Snider presented project.

Leslie Dumas, representative for Regional Urban Water Augmentation Project (RUWAP), agreed to the conditions.

No public comment

The Zoning Administrator approved the project.

5. **1:45PM -STARKMAN TIMOTHY - PLN090183**  
PLANNING AREA: TORO AREA. PROJECT PLANNER: VALERIE NEGRETE. ENVIRONMENTAL STATUS: TBD. PROJECT DESCRIPTION: COMBINED DEVELOPMENT PERMIT TO ALLOW: 1) A USE PERMIT TO ALLOW DEVELOPMENT ON SLOPES OF OVER 30% FOR A NEW CIRCULAR DRIVEWAY AND CONSTRUCTION OF A 1,200 SQUARE-FOOT DETACHED FOUR-CAR GARAGE AND WORKSHOP WITH A 186 SQUARE FOOT RETAINING WALL AND GRADING OF APPROXIMATELY 250 CUBIC YARDS OF CUT/ 230 CUBIC YARDS OF FILL, AND 2) AN ADMINISTRATIVE PERMIT FOR THE DEVELOPMENT IN A "VS" VISUALLY-SENSITIVE DISTRICT. THE PROJECT IS LOCATED AT 25319 CAMINO DE CHAMISAL, SALINAS (ASSESSOR'S PARCEL NUMBER 161-562-003-000), TORO AREA PLAN.  
RECOMMENDED ACTION: APPROVE PROJECT

Taven Kinison-Brown, presented project for the project planner Valerie Negrete. Staff discussed the changes presented in the errata for the project.

Margie Ingram-Vielas, representative for applicant agreed to all conditions and changes presented in the errata.



Public Comment: Dave Willham

The Zoning Administrator approved the project with revisions.

6. **1:50PM - JOHNSON ROBERT A & SHEILA R JO - PLN090270**  
PLANNING AREA: CARMEL AREA. PROJECT PLANNER: BRITTANY ARMER.  
ENVIRONMENTAL STATUS: CATEGORICALLY EXEMPT. PROJECT  
DESCRIPTION: COASTAL DEVELOPMENT PERMIT AND DESIGN APPROVAL  
TO ALLOW DEVELOPMENT WITHIN 750 FEET OF A KNOWN  
ARCHAEOLOGICAL RESOURCE FOR SITE IMPROVEMENTS THAT INCLUDE:  
A 806 SQUARE- FOOT COBBLESTONE DRIVEWAY, A 552 SQUARE- FOOT  
FRONT PATIO, A NEW OUTDOOR SHOWER, INSTALLATION OF  
LANDSCAPING, PERIMETER FENCE AND ACCESS GATES. THE PROPERTY IS  
LOCATED AT 26309 OCEAN VIEW AVENUE, CARMEL (ASSESSOR'S PARCEL  
NUMBER 009-431-034-000), COASTAL ZONE. RECOMMENDED ACTION:  
APPROVE PROJECT

Project planner Brittany Armer presented the project.

Steve Krebs, representative for applicants agree to the conditions.

Environmental Health representative Janna Faulk discussed the outdoor shower with applicant.

No public comment.

The Zoning Administrator approved project.

7. **1:55PM - CALTRANS - PLN090295**  
PLANNING AREA: CARMEL AREA. PROJECT PLANNER: ANNA QUENGA.  
ENVIRONMENTAL STATUS: NEGATIVE DECLARATION PREPARED.  
PROJECT DESCRIPTION: COMBINED DEVELOPMENT PERMIT CONSISTING  
OF 1) COASTAL DEVELOPMENT PERMIT FOR DEVELOPMENT WITHIN 100  
FEET OF ENVIRONMENTALLY SENSITIVE HABITAT; 2) COASTAL  
DEVELOPMENT PERMIT TO ALLOW MAJOR VEGETATION REMOVAL  
(APPROXIMATELY 1,600 SQUARE FEET OF DISTURBED AREA); AND 3)  
COASTAL DEVELOPMENT PERMIT FOR DEVELOPMENT WITHIN 750 FEET OF  
A KNOWN ARCHAEOLOGICAL RESOURCE. DEVELOPMENT CONSISTS OF  
REPLACING AN EXISTING 50 FOOT LONG, 36-INCH CULVERT PIPE WITH A 48  
FOOT LONG 48-INCH CORRUGATED STEEL CULVERT PIPE, A GABION  
BASKET ENERGY DISSIPATER, DEBRIS RACK, AND ASSOCIATED  
EXCAVATION. THE PROPERTY IS LOCATED ON HIGHWAY 1 AT PM 68.9  
(ADJACENT TO ASSESSOR'S PARCEL NUMBER 241-202-003-000), CARMEL  
LAND USE PLAN AREA, COASTAL ZONE. RECOMMENDED ACTION: ADOPT  
NEGATIVE DECLARATION AND APPROVE PROJECT.

Project planner Anna Quenga presented project.

Cathy Stettler and Lance Gorman, Caltrans representatives Public Comment: Ed Chiles, The  
Zoning Administrator considered ND and approved the project



Frank J. Hevrdejs  
9 Greenway Plaza, Suite 2400  
Houston, TX 77046  
frank.1@fjhventures.com  
713.341.5708  
713.303.6025 cell

January 12, 2018

Mr. Mike Novo  
County of Monterey Zoning Administrator  
1441 Schilling Place  
Salinas CA 93901

RE: 1691 Crespi Lane Pebble Beach 93953

Dear Mr. Novo,

I'm writing to provide some background to you on the opposition to the home project my wife and I have applied for in Pebble Beach.

My wife and I bought this property over two years ago and have been working with our architects to develop a house sensitive to the neighborhood, in good taste, and providing a substantial reduction in the amount of impervious surface on the property. Our plans were submitted to Monterey County last July for review and approval. We have already been approved by LUAC and the Pebble Beach Company Architectural Review Committee. Our neighbor to the north, Mr. Gambord, has fought us at every turn in the planning of our house. The planner assigned to our project, Joe Sidor, can attest to the nature of Mr. Gambord's ire at our house proposal to rebuild a home on this property. Mr. Gambord has:

- Demanded that our house include a large circular driveway which he has repeatedly been told is against county regulations and would require an entire redo of our plans
- Asked us to relocate our homesite to a slope of over 30 percent from the less than 25 percent in our submitted plans
- Demanded the entire elimination of our deck facing the ocean
- Made numerous aspersions toward us, our plans and our attorney, requiring tremendous time and cost to respond

Mr. Gambord has also retained a lawyer who has sent several long threatening letters using language from *The Godfather* that he will be "going to the mattresses" to fight our house construction. This is a small sample of the vitriol and scare tactics that Mr. Gambord has directed at us.

In an attempt to placate Mr. Gambord, we have agreed to plant very large Monterey cypress trees along the common boundary between our homes, solely at our expense, and have made a significant reduction in our deck nearest his house. Nothing, however, would seem to please Mr. Gambord except for us to abandon our project and allow him to live next to the existing abandoned house on our lot which is approved for demolition. Basically Mr. Gambord does not want us to build on our lot and seemingly will stop at nothing to stop our project.

Mr. Gambord has shown no regard for our right to legally build, and he has shown no regard for the rules and regulations of Monterey County. We have worked with our architect and County staff to design house plans that our other neighbors are in complete support of. Both of our other neighbors have sent support letters for our project to your staff. We ask you to support the design we have proposed with the approval of our plans which present a very attractive and environmentally superior alternative to the existing house on our property.

Sincerely,



Frank J. Hevrdejs

**Sidor, Joe (Joseph) x5262**

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**From:** Joel Gambord <jgambord@gmail.com>  
**Sent:** Wednesday, January 31, 2018 9:21 AM  
**To:** Sidor, Joe (Joseph) x5262; Sidor, Joe (Joseph) x5262  
**Cc:** Bruce Tichinin  
**Subject:** Your Phone Call Last Evening 1-30-2018  
**Attachments:** GAM18005-EXHIBITS-1pg-.pdf

Joe.....thanks for your phone call yesterday afternoon.....you're working late these days. During that call we explored several ideas regarding the Hevrdejs project. I guess at this point, the circular driveway concept is not pertinent until the applicant makes that request.....I have gone down that path only to see if this was a viable alternative to the current site plan. I have avoided explicitly touching the home design itself - only the siting of the building. I asked Steve Wilson's help, Monterey Bay Engineering (MBE), in looking at how this might be done using a circular driveway. Using a circular driveway is one way to move the building back away from the joint property line - as proposed it is ten feet closer and five feet higher in elevation than the existing home. A circular driveway would mitigate it's visually overbearing and intrusion into our space. I have attached the results of MBE study.....it's a win-win for everyone. And, FYI, Granite can supply pervious concrete that will support all known fire trucks. That's what we used here.

Let's talk about the LUARC meeting - at that meeting we came unprepared due to the fact we were unable to secure a copy of the plans - the Hevrdejs architect let us look at a small 11x17 set of plans and allowed us to keep them for just a few hours and then came to my home to pick them up. He also demanded that we do not make any copies. We were not able to get a set of plans until you personally helped hand carry me through the County web site where we did finally find a full set of the plans in pdf format. That's when we finally got something real to look at and evaluate. Your help was appreciated, by the way.

At the LUARC meeting, after just a brief look at the plans before the committee, I could see a possible good solution would be a circular driveway, but you shot down that idea completely and emphatically speaking up saying "never going to happen". Frank Hevrdejs said to me after the meeting he'd like to have a circular driveway but thought it would take too long to try for a variance and it might fail in the end. He didn't want to gamble the time to go down that path.

Subsequent to that meeting, Hevrdejs sent me an email telling me he was making changes to the deck. that I had requested. Wrong, I have never requested any specific change to the house plan itself in any way. Nevertheless, the plan was changed, that's not in dispute. Whether it was a small insignificant change or a major one is in the eyes of the beholder. I believe the change was made to help mitigate the issue of "construction over a grade in excess of 30%", which is what it did. However, the plan as changed still involves construction over a grade in excess of 30% as you have detailed in Item 5 of your Notice of Public Hearing.

In our conversation yesterday, you stated that that was not a significant issue since the existing home was on essentially the same footprint. It seems to me that when improvements on a property are completely demolished, which is what is happening in this case, that puts any new development having to comply with all the current policies and regulations. This is opposed to a "Remodel" when certain nonconforming issues are "grandfathered" in. I ask, is Planning preparing a Variance for this 30% slope issue?

In any case, Joe.....a change was made to the plans after the LUARC meeting and we should have had an opportunity to see what changes were proposed and consider those changes with, and in front of another LUARC meeting. Proceeding without doing this is denying us due process as an affected party to the development.

I ask you once again.....please send this development back to LUARC at your earliest convenience so this proposed new development can proceed in a proper manner.

Thank you.

Joel Gambord  
1683 Crespi Lane  
Pebble Beach, CA 93953  
831-624-1300



LKTKR HOLDINGS LLC  
DOCUMENT: 2010065191  
APN 008-371-006

BUTTS  
DOCUMENT: 2003060384  
APN 008-371-015

GAMBORD  
DOCUMENT: 2014021859  
APN 008-371-014

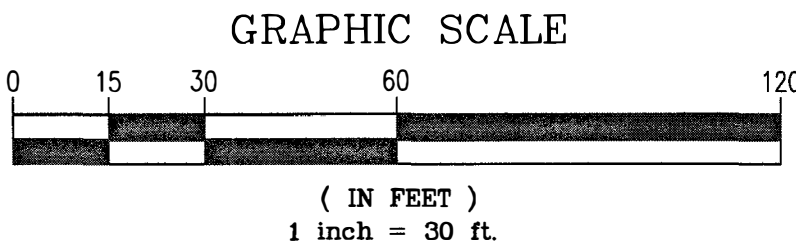
HEVRDEJS  
DOCUMENT: 2016040223  
APN 008-371-013

Received by RMA-Planning  
on January 31, 2018.

- NOTES:
1. BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY DATA SHOWN ARE FROM THE RECORDS.
  2. DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
  3. CONTOUR INTERVAL = 1 FOOT.
  4. ELEVATIONS SHOWN ARE BASED ON AN ASSUMED DATUM.
  5. ● DENOTES A SET 3/4" IRON PIPE, TAGGED LS7771.
  6. ⊙ DENOTES A FOUND 3/4" IRON PIPE, TAGGED LS2689.
  7. TREE TYPES ARE INDICATED WHEN KNOWN. DIAMETERS OF TREES ARE SHOWN IN INCHES.

- LEGEND:
- X — FENCE LINE
  - AC . . . . . ASPHALTIC CONCRETE
  - CYP . . . . . CYPRESS
  - (E) . . . . . EXISTING
  - EP . . . . . EDGE OF PAVEMENT
  - (N) . . . . . NEW
  - O . . . . . OAK
  - (P) . . . . . PROPOSED
  - P . . . . . PINE
  - T . . . . . TREE, SPECIES NOT SPECIFIED
  - WM . . . . . WATER METER
  - PROPOSED CONTOUR

PARCEL B  
VOLUME 17  
PARCEL MAPS  
PAGE 50



SITE PLAN

OF  
JOEL GAMBORD RESIDENCE & FRANK HEVRDEJS RESIDENCE  
APN: 008-371-014 & 008-371-013  
AS SHOWN ON THAT MAP ENTITLED  
EL PESCADERO RANCHO AND POINT PI NOS RANCHOS  
( Filed in Vol. 3 of Surveys at Page 3, Records of Monterey County )

PEBBLE BEACH COUNTY OF MONTEREY STATE OF CALIFORNIA  
PREPARED FOR  
JOEL GAMBORD  
BY  
MONTEREY BAY ENGINEERS, INC.  
607 CHARLES AVE SUITE B PHONE: (831) 899-7899 SEASIDE, CA 93955  
SCALE: 1" = 30' JOB No. 18-005 JANUARY, 2018  
ONE SHEET ONLY

VOLUME X-1  
SURVEYS  
PAGE 216



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