

MONTEREY COUNTY ZONING ADMINISTRATOR

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| Meeting: April 12, 2007 Time: 1:35 | Agenda Item No.: 2 |
| Project Description: Variance to increase the allowed building site coverage of 5% in the "Farmland" zoning district from the existing 17.70% to 23.5% to accommodate a 760 square foot garage; and allow a reduction in the front yard setback requirement from 50 feet to 12 feet. | |
| Project Location: 36244 Mission Road, Soledad | APN: 165-032-022-000 |
| Planning File Number: PLN040549 | Name: Charles & Nancy Morrison, Property Owners |
| Plan Area: Central Salinas Valley Area Plan | Flagged and staked: Yes |
| Zoning Designation : "F/40" [Farmlands, with a minimum building site of 40 acres] | |
| CEQA Action: Categorically Exempt per Section 15301 (e) | |
| Department: RMA - Planning Department | |

RECOMMENDATION:

Approve the Variance based on Findings and Evidence (**Exhibit C**) and subject to recommended conditions of approval (**Exhibit D**)

PROJECT OVERVIEW:

The subject property is located in the Central Salinas Valley area between River Road and Soledad. The property is zoned for agricultural uses "F/40" Farmland, 40 acre minimum and is one of four properties that are significantly smaller than the majority of the properties in the immediate vicinity. The property is not used for agricultural purposes due to the size of the property, is not considered agriculturally viable. The farmland zoning designation permits single-family dwellings on agricultural properties; however, because the development standards in the "F/40" zoning district limit the site coverage to 5% the subject property is appreciably constrained. For that reason all development, including the new proposed development of a detached accessory structures cannot be allowed without a variance. See attached (Exhibit B)

OTHER AGENCY INVOLVEMENT:

- ✓ Mission Soledad Rural Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by the RMA-Planning Department, and Mission Soledad Rural Fire Protection District have been incorporated into the condition compliance reporting plan (**Exhibit D**).

No Land Use Advisory Committee (LUAC) exists for this area.

Note: The decision on this project is appealable to the Planning Commission.

Ramon A. Montano
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January 30, 2007

cc: Zoning Administrator; Mission Soledad Rural Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Interim Director Mike Novo; Ramon A. Montano, Planner; Carol Allen, Charles & Nancy Morrison, Applicants; Planning File PLN040549.

Attachments: Exhibit A Project Data Sheet
 Exhibit B Project Overview
 Exhibit C Recommended Findings and Evidence
 Exhibit D Recommended Conditions of Approval
 Exhibit E Applicant's Letter of Variance Justification
 Exhibit F Site Plan, Elevations, Floor Plans

This report was reviewed by Mike Novo, Interim Director, Planning Department.

EXHIBIT A

EXHIBIT B

PROJECT REVIEW

The subject .3 acre legal nonconforming lot is located in an area designated for agricultural use. The subject property is one of four lots significantly smaller than the majority of the properties in the immediate vicinity. The “F/40” zoning designation permits single-family dwellings on lots of record and single-family dwelling are common on agricultural properties in the vicinity. The 5% site coverage requirement would allow maximum site coverage of 651 square feet on the .3 acre parcel. Therefore the applicant is seeking a variance to exceed the 5% lot coverage limitation and increase the site coverage from 17% to 23.5% to allow the construction of a new 760 square foot one-story detached garage. Additionally the project proposes a reduction in the front setback from 50 feet to 12 feet to construct the proposed garage. The sight location is due to the size constraints of the property and because the house and pool already exist, the only area available on the lot to place the garage is directly in front of the existing residence.

The county issued building permits for the residence and subsequently allowed the property owner with building permits to convert the garage into a bedroom. Therefore the residence is considered legal non-conforming because it no longer has a garage however, at the time (1964) there were no requirements in the U zoning district for covered parking such as garages or carports unless otherwise required by a use permit. However under the current parking standards in zoning ordinance (Title 21), a single family dwelling is required to maintain one covered space and one uncovered space. The applicant has submitted an application to construct a two garage, however, in order to allow the construction of the proposed garage a variance to exceed site coverage and to reduce the front setback must first be granted.

The county has processed similar types of variances with similar circumstances that exist on these non conforming properties in the “F/40” zoning designation. The size of these properties is considered the physical constraint limiting the size of the residence or structures which would otherwise be allowed in an area zoned primarily for residential use and other lots in the same zoning classification. For that reason the county reviews each of these variances and has allowed the 5% site coverage limitation to be considered the special circumstance for lots with an “F/40” zoning designation and has determined that it would not grant a special privilege not unlike one found in the preceding variances granted below. In this case, the strict application of the lot coverage standard would deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zoning classification. The use is consistent with the zoning and the approval of this variance would not be a grant of special privileges.

Variances to site coverage have been granted to properties under similar circumstances in the “F/40” zoning district. The following variances have been granted increases to the 5% site coverage limit because of the size and location of each property including: Mason PLN050081, Backus PLN040020, Nelson PLN020063, and Horsley PLN010572. The variances have allowed the owners of size restricted lots the same opportunity for development as that of larger parcels in the same zoning designation. Each of the variances listed in the table below granted increases in site coverage between 2% and 4%. The area of the existing residence and garage for PLN050061 is 2,864 square feet, and was granted a lot coverage increase of 3.45%; for PLN050081 an increase of 4.94% was granted. The table below demonstrates the site coverage increases that have been granted for each of the listed projects. The common denominator for each project is they are all reside in the “F/40” zoning designation and are constrained by the lot size.

| File No. | Assessor's Parcel | Lot size/acres | Allowed site coverage | Existing site coverage | Site coverage increase |
|------------|--|----------------|-----------------------|------------------------|------------------------|
| PLN050081 | 216-033-004-000 | 1.14 | 5% | 2.76% | 4.94% |
| PLN050601 | 177-081-010-000 | .53 | 5% | 11.15% | 3.45% |
| PLN040020 | 253-031-002-000 | 1.87 | 5% | 2.49% | 3.85% |
| PLN010572 | 139-051-004-000 | .0643 | 5% | 9.05% | 4.01% |
| PLN020063 | 235-082-007-000 | 0.9 | 5% | 7.1% | 2.1% |
| PLN020063 | Variance to allow the reduction of front setback | | | | |
| *PLN040549 | 165-032-022-000 | .3 | 5% | 17.6% | 5.9% |

*Proposed application

For that reason the County recognizes that legally established parcels in the Farmlands zoning district maintaining a residential use, which are significantly smaller, would be unfairly unencumbered by the 5% site coverage maximum. Therefore, in similar cases variances have been granted for residential lots in the same zoning designation. These nonconforming parcels don't meet the criteria for viable farmlands. The General Plan requires a minimum of 40 acres to be considered viable with the exception of special treatment areas which are allowed 10 acres. Therefore these small acreage lots are found to be more appropriately regulated under the residential zoning designations of low, medium or rural density residential ("LDR", "MDR" or "RDR") allowing a site coverage of 25% or 35%.

Section 21.72.040 of the Monterey County Zoning Ordinance, Title 21 requires that certain findings must be made in order to grant a variance. These findings include: the existence of special circumstances making the strict application of code requirements to deprive the subject property of privileges enjoyed by other properties in the vicinity; that the granting of a variance does not constitute a grant of special privileges inconsistent with the limitations upon the other properties in the vicinity and zone in which such property is situated; and that a variance shall be granted for a use or activity not authorized by the zoning regulations governing the parcel or property.

Based on the above discussion and staff review of the site conditions and circumstances of subsequently approved variances with similar conditions staff believes that the necessary findings can be made for the granting of the variance and therefore recommends that the variance be granted subject to the recommended findings and conditions of approval.

EXHIBIT C

RECOMMENDED FINDINGS AND EVIDENCE

- 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, the Central Salinas Valley Area Plan, the Central Salinas Valley Area Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.
- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The property is located at 36244 Mission Road, Soledad (Assessor's Parcel Number 165-032-022-000), Central Salinas Valley Area Plan. The parcel is zoned Farmland with a maximum gross density of 40 acres per unit ("F/40"). The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21, and is therefore suitable for the proposed development.
 - (c) The project planner conducted a site inspection on November of, 2006 to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) The subject property is a legal lot of record per county assessor's map book 165 page 03 1972. The adjacent parcel was granted an Unconditional Certificate Compliance (Planning File No. CC000005).
 - (e) The project was not referred to a Land Use Advisory Committee (LUAC) for review because the project site is not located in an area with a LUAC
 - (f) The subject property has a General Plan Designation of "Farmland, 40 acre minimum,"
 - (g) 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 PLN040549.
- 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, South County CDF, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is suitable for the proposed development Variance. Conditions recommended have been incorporated.
 - (b) There has been no indication from these agencies that the site is not suitable. Based on the Monterey County GIS, project description, materials in the file, preceding evidence, and comments by the above agencies, 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 project.
 - (c) Staff conducted a site inspection on November of, 2006 to verify that the site is suitable for this use.
 - (d) Materials in Project File PLN040549.

- 3. FINDING: CEQA (Exempt)** – The proposed project will not have a significant environmental impact.
- EVIDENCE:** (a) Section 15301(e) of the CEQA Guidelines categorically exempts the proposed development from environmental review. The proposed construction qualifies for this categorical exemption since it is an addition to an existing single family dwelling.
- (b) The project as proposed will not add more than 50% of the existing floor area
- (c) No adverse environmental impacts were identified during staff review of the project application.
- (d) See preceding and following findings and supporting evidence.
- 4. FINDING: SPECIAL CIRCUMSTANCES** – That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
- EVIDENCE:** (a) The subject parcel is zoned with an agriculture zoning designation that is normally applied to parcels of 40 acres or more.
- Pursuant to Section 21.30 of the “F” zoning district, the purpose of the zoning is to “preserve and enhance the use of prime, productive and unique farmlands in the County of Monterey while also providing the opportunity to establish support facilities for agricultural uses. The subject parcel is too small to be a viable agriculture operation and the 5% coverage limitation attached to the “F” zoning designation, should not be applied to parcels of .3 acres. In this specific case, the 25% site coverage standard of the Low Density Residential zoning designation should be applied to the subject property.
- (b) The residential use and circumstances which created the current set back issue
- 5. FINDING: NOT A GRANT OF SPECIAL PRIVILEGE** – "That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated".
- EVIDENCE:** (a) Variances to site coverage have been approved for parcels with similar circumstances regarding size in the agriculture zoning designations, such as Eastman-PLN050601, Mason-PLN050081; Backus-PLN040020; PLN020063-Nelson; and PLN010572-Horsley. Granting of these variances has not constituted a special privilege because they afford these restricted lots the potential for development that would be allowed on larger parcels under the same zoning.
- (b) Table listed in Exhibit B of this report
- (c) Materials in Project File PLN040549.
- 6. FINDING: THIS USE IS AUTHORIZED IN THIS ZONING-** A Variance shall not be granted for a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- EVIDENCE:** (a) The property is located in the “F/40” (Farmlands 40 acres per unit) zoning designation which allows for single family residences per Monterey County Code Section 21.30.030.B.
- (b) Staff’s site visit on November of, 2006
- (c) Materials in Project File PLN040549.

7. 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: 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.

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: Preceding findings and supporting evidence.

9. FINDING: APPEALABILITY - The decision on this project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040 B. Monterey County Zoning Ordinance Title 21).

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| EXHIBIT D Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan | Project Name: Charles & Nancy Morrison File No: PLN040549 Approved by: Zoning Administrator | APN: 165-032-022-000 Date: March 8, 2007 |
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i> | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i> | <i>Responsible Party for Compliance</i> | <i>Timing</i> | <i>Verification of Compliance (name/date)</i> |
|------------------------------------|--------------------------|---|--|---|---|---|
| 1. | | PBD029 - SPECIFIC USES ONLY This Variance (PLN040549) Variance to increase the allowed building site coverage of 5% in the "Farmland" zoning district from the existing 17.70% to 23.5% to accommodate a 760 square foot garage; and allow a reduction in the front yard setback requirement from 50 feet to 12 feet. The property is located at 36244 Mission Road, Soledad (Assessor's Parcel Number 165-032-022-000), fronting on Mission and easterly of the corner of Foothill and Fort Romie Road, in the Central Salinas Valley Planning Area. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. [Resource Management Agency (RMA) - Planning Department] | Adhere to conditions and uses specified in the permit. | Owner/ Applicant | Ongoing unless other- wise stated | |

| Permit Cond. Number | Mitig. Number | Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department | Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted. | Responsible Party for Compliance | Timing | Verification of Compliance (name/date) |
|---------------------|---------------|--|--|--|---|--|
| 2. | | <p>PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution No. 040549) was approved by the Zoning Administrator for Assessor's Parcel Number 165-031-022-000 on March 29, 2007. The permit was granted subject to 6 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)</p> | <p>Proof of recordation of this notice shall be furnished to RMA - PD</p> | <p>Owner/ Applicant</p> | <p>Prior to Issuance of grading and building permits or start of use.</p> | |
| 3. | | <p>PBD030 - STOP WORK - RESOURCES FOUND If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning 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. (RMA - Planning Department)</p> | <p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.</p> | <p>Owner/ Applicant/ Archaeologist</p> | <p>Ongoing</p> | |

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i> | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i> | <i>Responsible Party for Compliance</i> | <i>Timing</i> | <i>Verification of Compliance (name/date)</i> |
|----------------------------|----------------------|---|--|---|--|---|
| 4. | | <p>PBD (NON-STANDARD) LIGHTING – EXTERIOR LIGHTING PLAN</p> <p>All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits.</p> <p>(RMA-Planning and Building Inspection)</p> | <p>Submit three copies of the lighting plans to PBI for review and approval.</p> | Owner/ Applicant | Prior to issuance of building permits. | |
| | | | <p>Construct and maintain lighting in accordance with approved plans.</p> | Owner/ Applicant | Ongoing | |
| 5. | | <p>FIRE026 - ROOF CONSTRUCTION (STANDARD)</p> <p>All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class B roof construction. Mission Soledad Rural Fire Protection District</p> | <p>Applicant shall enumerate as “Fire Dept. Notes” on plans.</p> | Applicant or owner | Prior to issuance of building permit. | |

