

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

REVISED
02066

RESOLUTION NO.

A. P. # 173-074-036-000

FINDINGS AND DECISION

In the matter of the application of
Daniel & Renee Luba TRS (PLN020008)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located at 900 La Terraza Court, Monterey, came on regularly for hearing before the Planning Commission on November 13, 2002.

WHEREAS: Said proposal includes:

- 1) Clarification of the Zoning boundary of the adjacent LDR/B-6-D district to include Lot 110 Tract 1307 of Rancho Monterey Subdivision, that is currently zoned LDR/B-6-VS-16'
- 2) Use Permit for the construction of a 6,052 square foot single-family dwelling in a VS district
- 3) Variance for height to exceed the height limit of 16 to 23 feet
- 4) Grading of approximately 850 cubic yards, and
- 5) Design Approval

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

FINDINGS OF FACT

1. **FINDING:** The Luba application (PLN020008), as described in condition #1 is for a Use Permit, a Variance and Design Approval. The property is located at 900 La Terraza Court, Monterey (Assessor's Parcel Number 173-074-036-000), west of Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula area and is zoned "LDR/B-6-VS(16)" or Low Density Residential no further subdivision and Visual Sensitivity District with a 16 foot height limit. The project, as conditioned, does conform with the plans, policies, requirements and standards of the General Plan, Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The subject property is in substantial compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 Zoning violation abatement costs, if any, have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and Greater Monterey Peninsula Area Plan.

EVIDENCE: The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

EVIDENCE: The project planner conducted a site visit on February 14, 2002, to verify that the proposed project complies with the Monterey County Zoning Ordinance and does not constitute ridgeline development as flagged and staked and as defined in Title 21 Section 21.06950.

EVIDENCE: Design Approval Request form with plans recommended for approval by the Greater Monterey Peninsula Land Use Advisory Committee.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records

indicates that no violations exist on subject property.

2. **FINDING:** The proposed project as recommended by staff will not have a significant environmental impact.
EVIDENCE: Section 15303(a) of the CEQA Guidelines categorically exempts single family residences from environmental review. No adverse environmental impacts were identified during staff review of the project application.

3. **FINDING:** A Variance under Title 21.72.040 (A&B) is not the appropriate remedy to cure the inconsistency between county ridgeline policy and actual lot topography in this instance. The proper vehicle to remedy the complaint is use of Title 21.08.030C., a modification of the boundary of the district affecting this particular lot.
EVIDENCE: Flagging and Staking at 30' in height was photographed from the relevant public viewing areas along Highway 68 and from Laguna Seca Park. The photos are evidence that as 30' high structure would not silhouette above the ridgeline.
EVIDENCE: The staff inspected the site when flagged and staked at a maximum height of 23'. An additional 7' or maximum of 30' above average natural grade on this lot would not constitute a silhouette visible on the skyline from Highway 68 or Laguna Seca Park, the two major public viewing areas.

4. **FINDING:** The boundary of the LDR/B-6-VS-16' district was inadvertently drawn to include APN: 173-074-036-000.
EVIDENCE: This parcel is lot 110 Tract 1307 of the Rancho Monterey Subdivision. As recorded the lot and topography thereon do not create the potential for ridgeline development when viewed from a common public viewing area, and therefore should not have been included in the 16' maximum height zoning district.

5. **FINDING:** The proposed project will not have a significant environmental impact.
EVIDENCE: Section #15303c of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

6. **FINDING:** The establishment, maintenance, and operation of the proposed development 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: The project as described in the application and accompanying material, was reviewed by the Department of Planning and Building Inspection, Cypress Fire Protection District, Public Works, Parks Department, Environmental Health Division, and the Water Resources Agency. The preceding departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood or the county in general.

7. **FINDING:** The decision on this project is appealable to the Board of Supervisors.
EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Planning Commission that (A) the request for a Variance be denied, (B) the zoning district boundary be clarified to recognize that the subject property should have been in an "LDR/B-6-D" district

and is not subject to a 16' height limit; and (C) the Use Permit and Design Approval for the residence is hereby approved, as shown on the attached sketch, subject to the following conditions:

1. The subject Combined Development (PLN020008) allows for a Use Permit the construction of a 6,052 square foot single family dwelling in a VS district, grading of approximately 850 cubic yards, and Design Approval. The property is located at 900 La Terraza Court, Monterey (Assessor's Parcel Number 173-074-036-000), west of Estrella Avenue, Pasadera Subdivision. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A Combined Permit (Resolution PLN010572) was approved by the Zoning Administrator for Assessor's Parcel Number 173-074-036-000 on November 13, 2002. The permit was granted subject to 20 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. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
4. Prior to the issuance of grading and building permits, the applicant pay a Highway 68 Corridor traffic impact fee of \$4,875 (this fee may be adjusted annually) prior to issuance of the building permit. **(Public Works)**
5. Prior to the issuance of grading and building permits, fire department notes shall be printed on the approved plans. **(Salinas Rural Fire District)**
6. Prior to the issuance of grading and building permits, a drainage plan shall be prepared to address on-site impacts. Stormwater runoff from impervious surfaces shall be directed to the existing stormwater drainage system for the Pasadera Subdivision. **(Water Resources Agency)**
7. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property, in the form of an approved Water Release Form. **(Water Resources Agency)**

Prior to Final Building Inspection/Occupancy:

8. All construction shall conform to the recommendations in the Geotechnical Report prepared for this project. **(Planning and Building Inspection)**
9. The site shall be landscaped. At least three weeks prior to occupancy, 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 be in sufficient detail to identify the location, specie, 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, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**

10. The applicant shall comply with Ordinance No. 3539, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency)**
11. 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. **(Salinas Rural 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. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Fire District)**
14. 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)**
15. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40 foot turning radius shall be used. **(Fire District)**
16. 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 occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. **(Salinas Rural Fire District)**
17. Attached garages shall be protected with automatic fire sprinklers. **(Salinas Rural Fire District)**
18. 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 % or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation for an entire parcel. **(Salinas Rural Fire District)**
19. 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." **(Salinas Rural Fire District)**

Continuous Conditions:

20. 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 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)**

PASSED AND ADOPTED this 13th day of November , 2002 by the following vote:

AYES: Errea, Sanchez, Hawkins, Pitt-Derdivanis, Brennan, Parsons, Diehl, Hernandez, Engell, Wilmot
 NOES: None
 ABSENT: None

Original Signed By:

 DALE ELLIS, 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 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.