

**MONTEREY COUNTY PLANNING COMMISSION
STATE OF CALIFORNIA**

RESOLUTION NO. 03016

A.P.# 416-445-046-000

FINDINGS AND DECISION

In the matter of the application for
Domingo and Audrey Rivera (DA020647)

WHEREAS: The Planning Commission pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a design approval to amend previously approved Design Approval to include: Change orientation of garage, increase height of house and the addition of stairs on the front side of residence, located at 18355 Corral Del Cielo, Salinas, Toro area, came on regularly for hearing before the Planning Commission on March 26, 2003.

DENIAL OF REQUESTED INCREASE IN HEIGHT OF RESIDENCE

1. **FINDING:** The proposed project, an amendment to a previously approved Design Approval (DA000499) to allow the increase in the height of house by 4 ft. and the addition of stairs at the front of the residence is inconsistent with the policies of the Monterey County General Plan, the Toro Area Plan and the requirements and standards of the Monterey County Zoning Ordinance (Title 21). The property is zoned RC/40-D or Resource Conservation, 40 acres per unit, Design Review District.

EVIDENCE: Planning and Building Inspection (PB&I) staff have reviewed the project as contained in the application and accompanying materials for consistency with the Monterey County General Plan, and the Toro Area Plan and Title 21 (Zoning Ordinance) and have determined that the proposed increase in height is not in conformance with the requirements of Section 21.36.010, which allows “only such development . . . which will be subordinate to the resources of the particular site and area”, and Section 21.44.010, which provides for design review of structures to “assure protection of the public viewshed.”

EVIDENCE: Staff conducted site visits on January 6, 2003 and March 12, 2003. The project site is visible from Corral del Cielo for approximately 1/3 mile when traveling east, as well as from a portion of San Benancio Rd. At the proposed height of 29 ft. from average natural grade, the residence would be the most visually prominent feature on the site, and thus will not be subordinate to the natural resources of the site and area.

APPROVAL OF THE REORIENTATION OF THE GARAGE

1. **FINDING:** The proposed project, an amendment to a previously approved Design Approval (DA000499) to allow the reorientation of the garage from a front entry to a side entry and the associated relocation of the driveway and the addition of associated retaining wall, is consistent with the policies of the Monterey County General Plan, the Toro Area Plan and the requirements and standards of the Monterey County Zoning Ordinance (Title 21). The property is zoned RC/40-D or Resource Conservation, 40 acres per unit, Design Review District.

EVIDENCE: Planning and Building Inspection Department (PB&I) staff have reviewed the project as contained in the application and accompanying materials for consistency with the Monterey County General Plan, and the Toro Area Plan and Title 21 and have determined that the project is consistent with the Toro Area Plan which designates this area as appropriate for residential development.

2. **FINDING:** The proposed development, as approved and conditioned, will not create a substantially adverse visual impact when viewed from a common public viewing area or adversely affect the natural scenic beauty of the area.

EVIDENCE: On January 8, 2001 and January 22, 2001, the Toro Land Use Advisory Committee, reviewed Design Approval (DA000499). In response to concerns raised by surrounding property owners and recommendations made by the Land Use Advisory Committee, the applicant reduced the height of the residence from 30 ft. to 25 ft. 4in. On June 27, 2001, the Planning Commission approved DA000499.

On January 6, 2003 and March 12, 2003, staff conducted site visits. The project site is visible from Corral del Cielo for approximately 1/3 mile when traveling east, however the view of the garage, driveway and retaining wall will be screened by the residence. Maintaining the approved height of 25 ft. 4in. is in keeping with Chapter 21.36 of the Zoning Ordinance which allows “only such development that can be achieved without adverse effect and which will be subordinate to the resources of the particular site and area.” At the approved height, the residence will be screened by off-site oak trees during most of the year. At the 4 foot height increase the residence would be prominently visible and would detract from the scenic quality of the existing views of the hills to the east from Corral del Cielo Rd. and San Benancio Rd.

3. **FINDING:** The proposed project will not have a significant environmental impact.
EVIDENCE: The Monterey County CEQA Guidelines categorically exempts this project from environmental review. No adverse environmental impacts were identified during review of the proposed project.

4. **FINDING:** Public notice of the pending Design Approval was provided pursuant to Section 21.44.050, Title 21, Monterey County Code (Zoning).
EVIDENCE: Materials in project file.

5. **FINDING:** The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of Title 21 and that all zoning

violation abatement costs have been paid.

EVIDENCE: Sections 21.36 (Regulations for Resource Conservation “RC” Zoning Districts), and 21.44 (Regulations for Design Control “D” Zoning Districts) of the Monterey County Code (Zoning). Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

6. **FINDING:** The site is physically suitable for the use proposed.

EVIDENCE: 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 project has been reviewed by the Monterey County Planning and Building Inspection Department. 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.

7. **FINDING:** 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: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection. Building and Grading Permits issued for the residence and site improvements were reviewed by the Health Department, Public Works Department, Water Resources Department and the Salinas Rural Fire District. The respective departments/agencies 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.

DECISION

THEREFORE, it is the decision of said Planning Commission to deny the portion of the Design Approval request for a 4 foot increase to the height of the single family residence and the addition of stairs at the front of the residence and grant the portion of the Design Approval request to change the orientation of the garage as shown on the attached sketch.

1. This permit allows an amendment to a previously approved Design Approval (DA000499) to allow the reorientation of the garage from a front entry to a side entry and the associated relocation of the driveway and retaining wall. The property is located at 18355 Corral Del Cielo Rd (Assessor's Parcel Number 416-445-046-000), east of Corral De Tierra Rd, Toro Area Plan. The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection Department)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution DA000499) was approved by the Planning Commission for Assessor's Parcel Number 416-445-046-000 on March 26, 2003. The permit was granted subject to 10 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 Department)**
3. All conditions of approval from previously approved permit (File No. DA000499) shall be satisfied. **(Planning and Building Inspection Department)**
4. All exterior lighting shall be unobtrusive, compatible 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 Department)**
5. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
6. Prior to the commencement of any grading or construction, the oak tree on the site shall be protected from damage from construction in accordance with the recommendations of Glenn Flamik of Forest City Consulting as outlined in the letter dated September 12, 2001. Tree protection shall be performed and supervised by a registered Forester or Arborist. **(Planning and Building Inspection Department)**
7. Any portion of the structure or associated improvements, including any grading or retaining walls which will be within the root zone of the oak tree shall be designed to minimize the impact of the development on the tree to the maximum extent possible. The design of the structure and improvements shall be submitted to the Director of Planning and Building Inspection for review and approval. **(Planning and Building Inspection Department)**

Prior to Final Building Inspection/Occupancy:

8. The applicant shall comply with Ordinance No. 3932 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 & Planning and Building Inspection Department)**

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. The project will be subject to a landscape plan review fee which shall be paid at the time of landscape plan submittal. The landscape plan shall include screening vegetation on the south and southwest portion of the property and between the driveway and the eastern property line. The landscaping 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, 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 Department)**

Continuous Permit Conditions:

10. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection Department)**

PASSED AND ADOPTED this 26th day of March, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, Diehl, Gonzalves, Rochester, 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.