

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

RESOLUTION NO. 03060

A.P. # 139-424-038-000

**FINDINGS AND
DECISION**

In the matter of the application of
Angie Son and B. Loyde Inlow (PLN030265)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for approval of an “as-built” terraced, 9’ tall (two 4.5 foot walls), concrete masonry unit retaining wall on a 30 percent or greater slope; approximately 200 cubic yards of soil removal; and Design Approval, located at 27561 Prestancia Circle, Las Palmas Ranch, 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:** The subject Use Permit and Design Approval (**Son, PLN030265**), as described in condition #1 and as conditioned, conforms to the plans, policies, requirements and standards of the General Plan, the Toro Area Plan and the Monterey County Zoning Ordinance (Title 21). The property is located at 27561 Prestancia Circle, Toro area. The parcel is zoned LDR/2.5-D-S, 2.5 units/acre, Design Control and Site Plan Review overlay. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The General Plan and Toro Area Plan;
- b) Chapter 21.14 of the Monterey County Zoning Ordinance regulations for development in the LDR zoning district;
- c) Title 21, Chapters 21.44 and 21.45, regulations for development in the ‘D’ and ‘S’ district, respectively; and
- d) Section 21.64.230 of Title 21, Development on slopes of 30%.

EVIDENCE: The Use Permit will partially clear an existing land use violation (Case no. CE030028), for the construction of the retaining walls without permits. The wall will require a building permit, per condition no. 2

2. **FINDING:** The project site is physically suitable for the proposed use as described in the project file.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department and Environmental Health Division. There has been no indication from these agencies that the site is not suitable for the proposed development. No agency recommended conditions of approval.

EVIDENCE: Design Approval request form, with recommendation for approval of the project by the Toro Land Use Advisory Committee on August 11, 2003 (4-0, 1 absent).

EVIDENCE: Written and verbal public testimony submitted at the September 24, 2003 Planning Commission hearing.

EVIDENCE: 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 the project file.

EVIDENCE: The on-site inspection by the project planner on July 7, 2003 to verify that the proposed project complies with the General Plan and Toro Area Plan.

3. **FINDING:** The proposed project is categorically exempt from the California Environmental Quality Act.

EVIDENCE: Section 15301 of the County CEQA Guidelines categorically exempts the proposed development from environmental review. The project involves the construction of minor retaining walls and grading on an engineered slope. No adverse environmental impacts were identified during staff review of the development application.

4. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to 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 improvement 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, Environmental Health Division, Public Works Department, Water Resources Agency. The respective departments have determined no conditions of approval are necessary 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.

EVIDENCE: Findings and Evidence for 5, below.

EVIDENCE: Materials in file PLN030265.

5. **FINDING:** The proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives.

EVIDENCE: The steepness the engineered slope restricts access and discourages landscape maintenance, resulting in a degraded appearance. Staff observed a number of slopes in this condition in the neighborhood. The stepped retaining wall provides a flat area in the lower portion of the slope which can be conveniently planted. The improved access will allow for easier landscape maintenance, potentially improving the appearance of the neighborhood. This is consistent with General Plan policies for the preservation and enhancement of the County's scenic qualities, and for the control of development siting, design and landscaping. (**Policies 26.1.6 and 26.1.7**)

EVIDENCE: The retaining wall will stabilize the lower portions of the slope and prevent erosion from occurring in this area. This is consistent with General Plan policies for the prevention of erosion (**Policy 3.1**)

EVIDENCE: Alternatives to the proposed retaining walls would involve more intensive slope-stabilizing planting on the lower portions of the slope to address erosion and improve the slope's appearance. This alternative, however, does not support the General Plan policies cited above as effectively as the proposed retaining wall, because landscape maintenance would remain inconvenient and difficult due to the steep slope and limited access. This factor contributes to the unkempt appearance of many similar engineered slopes in the neighborhood.

EVIDENCE: Materials in file PLN030265.

6. **FINDING:** The project is appealable to the Board of Supervisors.

EVIDENCE: Section 21.80.040.D of the Monterey County Zoning Ordinance (Title 21).

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. The subject Use Permit is for the "as-built" approval of a terraced, 9' tall (two 4.5-foot walls), concrete masonry unit retaining wall on a 30 percent or greater slope, and Design and Site Plan Approval for the proposed retaining walls (approximately 200 cubic yards of soil removal); and Design and Site Plan Approval, at 27561 Prestancia Circle, Las Palmas Ranch (Assessor's Parcel Number 139-424-038), Toro area. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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)**
2. All required grading and building permits for the retaining wall shall be obtained. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

3. The applicant shall record a notice which states: "A permit (Resolution 03060) was approved by the Planning Commission for Assessor's Parcel Number 139-424-038 on September 24, 2003. The permit was granted subject to 5 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)**
4. 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)**
5. The applicant shall obtain a grading permit from the Building Inspection Division. **(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, Rochester, Gonzalves, 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 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. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.