

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

RESOLUTION NO. 04001

A.P. # 173-074-031-000

In the matter of the application of
Delos-Global Enterprises Inc. (PLN030022)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for a Waiver of the policy prohibiting development on 30% slope for the construction of a two story 4,748 square foot single family dwelling with an attached 901 square foot three car garage, retaining walls and grading (2,952 total cut); and Design Approval. The property is located at 805 Tesoro Court, Monterey, Pasadera Subdivision, Greater Monterey Peninsula area, came on regularly for hearing before the Planning Commission on January 28, 2004.

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

FINDINGS OF FACT

1. FINDING: CONSISTENCY - The Delos-Global Enterprises Use Permit and Design Approval, as described in condition #1 and as conditioned is consistent with the plans, policies, requirements, and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, and the Monterey County's Zoning Ordinance (Title 21). The property is located at 805 Tesoro Court, Lot 105, Pasadera Subdivision, Greater Monterey Peninsula Area Plan. The parcel is zoned "LDR/B-6-D" or Low Density Residential, Building Site, Design Control District overlay which designates this area as appropriate for residential development.

- EVIDENCE:**
- (a) The Planning and Building Inspection staff reviewed the project for consistency with:
 - Monterey County General Plan
 - Greater Monterey Peninsula Area Plan
 - Regulations for the Low Density Residential Zoning District of the Monterey County Zoning Ordinance (Title 21).
 - Section 21.64.230 of Title 21, Development on slopes in excess of 30 percent
 - (b) A Geotechnical Investigation report was prepared for this site by Soil Survey Inc., dated December 20, 2002. The report concludes that the site is suitable for the proposed development provided recommendations in the report are incorporated in the project design.
 - (c) The project planner conducted an on-site inspection on November 22, 2002 to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) A single family home is an allowed use in accordance with Sections 21.14.040. (Title 21)
 - (e) The parcel is zoned Low Density Residential, Building Site, Design Control District, ("LDR/B-6-D)." The project is in compliance with Site Development Standards for a Low Density Residential District in accordance with Section 21.14.060. (Title 21)
 - (f) Development on slopes of greater than 30 percent is necessary due to the parcel shape, configuration and the man made slopes created during the subdivision grading. The developable land on this parcel ranges from 15 percent to an excess of 30 percent slope. Shaded areas on

the site plan showing that portion of the building footprint on excess of 30 percent slope. Development on 30 percent slope has been minimized where feasible.

(g) Design Approval request form, with recommendation for approval of the project by the Greater Monterey Peninsula Land Use Advisory Committee on October 1, 2003 (3-0, 2 absent).

(h) 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 PLN030022.

- 2. 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, and all 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 that exist on subject property.

(b) Sections 21.14 and 21.44 of the Monterey County Code (Zoning)

- 3. 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) The project was reviewed by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and Salinas Rural Fire Protection District. The respective departments and 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

(b) A technical report has been provided by the consulting geotechnical engineer recommending conditions and modifications that provide additional assurances regarding project safety. "Geotechnical Report and Transfer of Responsibility for New Single Family Dwelling" by Richard E. Dante of Soil Survey Inc. Report is in Project File PLN030022.

- 4. 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 Department, Water Resources Agency, Environmental Health Division, Parks Department and Carmel Highlands Fire Protection District. Conditions recommended have been incorporated.

(b) Staff conducted an on-site visit on November 22, 2002 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

- 5. FINDING: 30 PERCENT SLOPE WAIVER** - There is no feasible alternative location which would allow development on slopes of less than 30 percent. The proposed location is consistent with and furthers the goals and policies of the Greater Monterey Peninsula Area Plan.

EVIDENCE: (a) Development on slopes of greater than 30 percent is necessary due to the parcel shape,

configuration and the man made slopes created during the subdivision grading. The developable land on this parcel ranges from 15 percent to an excess of 30 percent slope. Shaded areas on the plan show that portion of the building footprint on excess of 30 percent slope. Development on 30 percent slope has been minimized where feasible.

(b) Slope analysis map found in Planning and Building Inspection Department, File PLN030022.

(c) There are no other alternative sites on the property suitable for the proposed project, with slopes less than 30 percent. 598 square feet of the driveway is on slopes between 20% - 29.9%; 415 square feet of the driveway is on slopes of greater than 30 percent; 364 square feet of the single family dwelling is on slopes between 20% -29.9% and 1,602 square feet on slopes of greater than 30%. Over 50% of this development is the re-compaction of soil for the driveway (415 square feet) and the southwesterly portion of the single family dwelling. (approximately 800 square feet). Less than 25% of the single family dwelling is on 30% slope (1,602 square feet); 5% (364 square feet) is on slopes of 20%-29.9% and the remaining 70% is on slopes less than 20% slope.

(d) Due to steep slopes on the front of the site, the property cannot be accessed without impacting slopes of thirty percent or greater. The only access to the site is across a slope of greater than thirty percent that was created as a result of the grading for the subdivision.

6. FINDING: CEQA (Exempt) – This project is exempt from environmental review.

EVIDENCE: (a) The State CEQA Guidelines categorically exempts this project from environmental review pursuant to CEQA Guideline Section 15303 (a), Class 3 (exemption for one single family residence).

(b) No potentially adverse environmental impacts were identified during staff review of the development application.

7. FINDING: APPEALABILITY - The project is appealable to the Board of Supervisors.

EVIDENCE: (a) Sections 21.80 of the Monterey County Zoning Ordinance (Title 21).

DECISION

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

1. The Delos-Global Enterprises Use Permit (PLN030022) to allow a waiver of the policy prohibiting development on 30% slope for the construction of a two-story 4,748 square foot single family dwelling with an 901 square foot three car garage, retaining walls and grading (approximately 2,952 cubic yards of cut); and Design Approval. The property is located at 805 Tesoro Court, Monterey (Assessor's Parcel Number 173-074-031-000), north of State Highway 68 in the Pasadera Subdivision, Greater Monterey Peninsula 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)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution No. 030022) was approved by the Planning Commission for Assessor's Parcel Number 173-074-031-000 on October 29, 2003. The permit was granted subject to 17 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. The applicant shall incorporate all recommendations from the Geotechnical Soils Report prepared by Soil Survey, Inc., dated December 20, 2002, into the final building plans. **(Planning and Building Inspection)**
5. Prior to issuance of any grading and /or building permits, a drainage plan shall be prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Impervious surface storm water run-off shall be directed to the existing storm water drainage system for the Pasadera Subdivision. **(Water Resources Agency)**
6. 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)**
7. Prior to construction in an area where existing trees are to be retained and protected, exclusion fencing shall be installed. Fencing shall be installed around the perimeter of the tree's drip-line. Fencing material shall be highly visible and sturdy. Construction equipment and activities shall not encroach into the exclusion zone without written authorization from the designated forester. **(Planning and Building Inspection)**
8. The applicant shall pay the following traffic impact fees: Expanded Area Traffic Mitigation Fee of \$4,750.00. These fees are adjusted annually. **(Public Works)**

Prior to Final Building Inspection/Occupancy:

9. 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 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)**
10. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, or in any fashion approved by the Reviewing Authority that provides for the same practical effect **(Salinas Rural Fire Protection District)**
 11. 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. **(Salinas Rural Fire District)**
 12. 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)**
 13. 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)**
 14. The site shall be landscaped. At least three weeks prior to occupancy, three copies of the **REVISED** landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. 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)**
 15. Prior to final inspection, the geotechnical consultant shall provide certification that all development has been in accordance with the geotechnical investigation prepared by Soil Surveys, Inc. (December 20, 2002). **(Planning and Building Inspection)**

Continuous Permit Conditions:

- 16. All landscaped areas and replanted trees 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)**
- 17. 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)**

PASSED AND ADOPTED this 28th day of January, 2004, by the following vote:

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

Original Signed By:

 JEFF MAIN, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO 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 Salinas.

- 2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.