

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

RESOLUTION NO. 04046

A.P. # 416-442-024-000

In the matter of the application of  
**Joseph & Dorothy Tierney (PLN040451)**

**FINDINGS & DECISION**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for the development of a 4,253 sq. ft. single-family dwelling and retaining walls on slopes greater than 30%, oak tree removal, and Design Approval. The property is located at 406-b Laurel Lane, Salinas, Toro area, came on regularly for hearing before the Planning Commission on October 13, 2004.

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

**FINDINGS OF FACT**

**1. FINDING:** The proposed Use Permit (**Tierney, PLN040451**) for the development of a single-family dwelling and retaining walls on slopes greater than 30%, oak tree removal, and Design Approval is consistent with the Toro Area Plan and Title 21 zoning designation of LDR/1-D (Low Density Residential, 1 unit per acre, Design Approval), and the Toro Area Plan designation of Low Density Residential.

**EVIDENCE:** **A.** 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; and

b) Chapters 21.14, 21.64.230, and 21.64.260 of the Monterey County Zoning Ordinance regulations for development in the LDR/1-D zoning district; development in 30% slope areas and oak tree removal

**B.** Materials in file PLN040451

**C.** Evidence for 2, 7, 8 and 9 below

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

**EVIDENCE:** **A.** The Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division and the Salinas Rural FPD Fire Protection District have reviewed the proposed development. There has been no indication from these agencies that the site is not suitable for the proposed use. Each agency has recommended conditions of approval.

**B.** Staff verification of the Monterey County Planning and Building Inspection

Department records indicated that no violations exist on subject property.

- C. Written and verbal public testimony submitted at the October 13, 2004 Planning Commission hearing.
- D. 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.
- E. The on-site inspection by the project planner on September 21, 2004 to verify that the proposed project complies with the General Plan and the Toro Area Plan.

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

**EVIDENCE:** A. Section 15303 (new small structures) of the County CEQA Guidelines categorically exempts the house project. No adverse environmental impacts were identified during staff review of the Use Permit and Design Approval application.

B. Project Forest Management Plan (Staub, April 2004)

C. Findings and Evidence for 9 below

**4. FINDING:** That adequate sewage disposal and water supply facilities exist or are readily available to the site, as approved by the Director of Environmental Health.

**EVIDENCE:** A. Environmental Health Division memorandum dated September 10, 2004 in project file

B. Materials in file PLN040451

**5. FINDING:** Adequate road and transportation facilities exist for the use.

**EVIDENCE:** A. Public Works project referral sheet dated August 2, 2004, project file. The Public Works Department reviewed the proposed project, and has indicated no adverse traffic impacts will occur.

**EVIDENCE:** B. Materials in file PLN040451

**6. 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:** A. 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, and Salinas Rural FPD Fire Protection District. The respective 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.

- B.** The contemporary-styled, shed-roofed home will be sided with plaster of a gold color and with manufactured stone veneer. These materials and colors will be visually compatible with the natural vegetation of the hillside neighborhood setting.

Removed trees over six inches in trunk diameter are required to be replaced on a one-to-one ratio. The forest management plan calls for the retention and protection of six existing oak saplings in an area above and south of the home site as mitigation for the removal of the six oaks to be removed. These oaks are proposed for identification on the project landscape plan as replacement trees to be retained.

- C.** Findings and Evidence for 7, 8 and 9 below

- 7. FINDING:** There is no feasible alternative which would allow development to occur on slopes of less than 30%

**EVIDENCE:** **A.** Virtually the entire site is steeply sloped, and for this reason no feasible siting alternatives outside 30 percent slope areas exist.

- B.** Applicant justification letter dated July 16, 2004

- 8. FINDING:** The tree removal is the minimum required under the circumstances of the case

**EVIDENCE:** According to the project forest management plan, site development requires removal of six coast live oaks. Trunk diameters of trees to be removed range in size from six-inch to 17-inch. Three trees must be removed to accommodate the driveway widening and four must be removed to make way for the home site, because their canopies extend into the house footprint area. Only the trees extending into the building site and driveway improvement areas are proposed for removal, therefore the tree removal is the minimum required to undertake the project.

- 9. FINDING:** The removal will not involve a risk of adverse environmental impacts

**EVIDENCE:** The number of trees to be removed is a small fraction of the existing oak forest on the site, which is located in the upper, west portion of the property, well outside the area proposed for development. Because of the fractional quantity of removal, the existing oak habitat will be minimally affected. Further, all disturbed slopes are required to be stabilized through standard erosion control and stabilization measures, such as native vegetation plantings. For these reasons, the oak removal will not involve a risk of environmental impact

- 10. 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 for a Use Permit be granted as shown on the attached sketch, and subject to the attached conditions.

**PASSED AND ADOPTED** this 13th day of October 2004, by the following vote:

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

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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 90<sup>th</sup> 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.