

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

RESOLUTION NO. 05015

A.P. # 416-082-040-000

In the matter of the application of
Gary Newsome (Upper Forty LLC) (PLN030470)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for construction of a two-story 2,353 sq. ft. single family dwelling, an attached 587 sq. ft. garage; septic system; removal of five 6" (or greater) oaks; and grading (340 cu. yds. of cut and 340 cu. yds. of fill); located in an area of Visual Sensitivity (Laureles Grade Road). The property is Lot 1 of Rancho Corral de Tierra, at the intersection of Los Laureles Grade and Camino Escondido Road, Rancho Corral de Tierra, Greater Monterey Peninsula area. The project came on regularly for hearing before the Planning Commission on March 9, 2005.

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

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** - The Project, as conditioned, is consistent with applicable plans and policies, the Greater Monterey Peninsula Area, and the Monterey County Zoning Ordinance (Title 21) which designates this area as appropriate for residential development. Specifically, the proposed improvements, which require a Use Permit, comply with all applicable requirements of Title 21 Section 21.64.260 Preservation of Oak and Other Protect Trees and Section 21.46 Visual Sensitivity.

EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with applicable plans and policies, the Greater Monterey Peninsula Area, and the Monterey County Zoning Ordinance (Title 21).
(b) Project planner conducted an on-site inspection on August 26, 2004, and verified that the project on the subject parcel conforms to the plans listed above.
(c) The project is in compliance with Site Development Standards relating to structure height and setback regulations for residential development in the Low Density Residential Development District (LDR/5), Section 21.14.060 of the County Zoning Ordinance (Title 21).

2. **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, Water Resources Agency, Environmental Health, and Salinas Rural Fire Department. Conditions recommended have been incorporated.
(b) Staff conducted an on-site visit on August 26, 2004, to verify that the site is suitable for this use.
(c) Necessary public facilities are available and will be provided.

3. **FINDING: USE PERMIT TO DEVELOP IN A VISUALLY SENSITIVE LAND USE DESIGNATION** - The project as proposed will not create a substantially adverse visual impact when viewed from a common public viewing area.
- EVIDENCE:** (a) The application and plans dated January 31, 2005, submitted for the proposal in project file PLN030470 at the Monterey County Planning and Building Inspection Department.
- (b) Title 21 Section 21.46 Visually Sensitive Districts (VS).
- (c) Site visit by staff on August 26, 2004.
4. **FINDING: USE PERMIT FOR TREE REMOVAL** – The subject project minimizes tree removal and will not involve risk of adverse environmental impacts.
- EVIDENCE:** (a) The application and plans dated January 31, 2005, submitted for the proposal in project file PLN030470 at the Monterey County Planning and Building Inspection Department.
- (b) Title 21 Section 21.64.260 Preservation of Oak and Other Protected Trees.
- (c) A condition has been added that the applicant record a notice stating that a Forest Management Plan has been prepared and any tree removal be in accordance with the approved plan.
- (d) Forest Management Plan prepared by Paul A. Dubsky, Forester and Environmental Consultant, dated September 26, 2003.
5. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.
- EVIDENCE:** (a) CEQA Guidelines Section 15303(a) - New Construction of a Single Family Residence categorically exempts construction of a single family residence from CEQA review.
- (b) No adverse environmental effects were identified during staff review of the development application during a site on August 26, 2004.
6. **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. Violations existing on the property will be cleared with issuance of the proposed Use Permit. Zoning violation abatement cost, if any, have been paid.
- EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records.
7. **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) Preceding findings and supporting evidence.
8. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.
- EVIDENCE:** (a) Monterey County Zoning Ordinance Title 21, Chapter 21.80.

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 9th day of March 2005, by the following vote:

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

DALE ELLIS, 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.

<p align="center">Monterey County Planning and Building Inspection Condition Compliance and/or Mitigation Monitoring Reporting Plan</p>	<p>Project Name: <u>Newsome</u></p> <p>File No: <u>PLN030470</u> APNs: <u>416-082-040-000</u></p> <p>Approval by: <u>Planning Commission</u> Date: <u>March 9, 2005</u></p>
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>SPECIFIC USES ONLY This Use Permit (PLN030470) allows construction of a split level 2,353-sq. ft. single-family dwelling with non-habitable storage below grade, an attached 587-sq. ft. garage; septic system; removal of five 6" (or greater) Oaks; grading (340-cubic yards of cut and 340 cubic yards of fill) and Design Approval. The property is located at 27155 Upper Forty Drive, Lot 1 of Rancho Corral De Tierra (Assessor's Parcel Number 416-082-040-000). This permit was approved 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)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	
2.		<p>NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 05015) was approved by the Planning Commission for Assessor's Parcel Number 416-082-040-000 on March 9, 2005. The permit was granted subject to 21 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</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	

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		prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)				
3.		PBD042 – GRADING PERMITS REQUIRED A grading permit is required. (Planning and Building Inspection)	Apply and receive the appropriate grading permit from Monterey County Planning and Building Inspection.	Engineer/ Owner/ Applicant	Prior to Issuance of Grading or Building Permits	
4.		PBD014 - GRADING-WINTER RESTRICTION 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)	None	Owner/ Applicant	Ongoing	
5.		PBD018(A) - LANDSCAPE PLAN AND MAINTENANCE (SINGLE FAMILY DWELLING ONLY) The site shall be landscaped. At least 60 days prior to occupancy, three (3) 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	Submit landscape plans and contractor's estimate to PBI for review and approval.	Owner/ Applicant/ Contractor	At least 60 days prior to final inspection or occupancy	

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		project. Fees shall be paid at the time of landscape plan submittal. 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. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)	All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.	Owner/ Applicant	Ongoing	
6.		STOP WORK - RESOURCES FOUND 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 a qualified professional archaeologist can evaluate it. 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)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. 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.	Owner/ Applicant/ Archaeo- logist	Ongoing	
7.		PBD021 – LIGHTING – EXTERIOR LIGHTING PLAN 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	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	

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		Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection)				
8.		PBD026 – NOTICE OF REPORT Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A(n) Forest Management report has been prepared for this parcel by Paul A. Dubsky, M.S., dated September 15, 2003 and is on record in the Monterey County Planning and Building Inspection Department. All development shall be in accordance with this report." (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to issuance of building permits.	
9.		PB NON STANDARD CONDITION – TREE REMOVAL/TREE REPLACEMENT Relocate or replace each removed protected tree on a one-to-one ratio. (Planning and Building Inspection)	Submit to PBI for review and approval documentation from a forester that trees within close proximity to the proposed retaining wall either must be removed to ensure public health welfare and safety or removal is not necessary.	Owner/ Applicant/ Contractor	Prior to issuance of grading permits	
			Submit evidence of tree relocation or replacement as part of the required landscaping plan identified in Condition No. 5 above.	Owner/ Applicant/ Contractor	At least 60 days prior to final inspection or occupancy	
10.		PBD032(A) - TREE PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of grading permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to Issuance of Grading Permits	

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		Inspection)				
11.		PBD032(B) – TREE AND ROOT PROTECTION Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection shall be demonstrated prior to issuance of grading permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to Issuance of Grading Permits	
12.		WR0002 STORMWATER CONTROL (WR) Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Storm water runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)	Submit drainage improvement plans, prepared by a registered civil engineer, to Water Resources Agency for review and approval.	Owner Applicant	Prior to issuance of Demolition , Grading and/or Building Permits	
13.		WR0043 WATER AVAILABILITY CERTIFICATION (WR) Prior to issuance of any building permits, the applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District	Submit proof of water availability from Monterey Peninsula Water Management District to Monterey County Water Resources Agency.	Owner Applicant	Prior to issuance of Demolition , Grading and/or Building	

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		Water Release Form. (Water Resources Agency)			Permits	
14.		<p>WR0040 WATER CONSERVATION MEASURES (WR) 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:</p> <ol style="list-style-type: none"> 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 re-circulating system. 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) 	<ol style="list-style-type: none"> Submit proof of appropriate plumbing fixtures for review and approval. Submit landscape plan for review and approval by the Water Resources Agency. 	Owner Applicant	Prior to Final Building Inspection/ Occupancy	

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15.		FIRE011 - ADDRESSES FOR BUILDINGS All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire dept. clearance inspection.	Applicant or owner	Prior to final building inspection	
16.		FIRE016 - SETBACKS All parcels 1 acre and larger shall provide a minimum 30-foot setback for new buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, alternate fuel modification standards or other requirements may be imposed by the local fire jurisdiction to	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	

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		provide the same practical effect. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
17.		FIRE017 - DISPOSAL OF VEGETATION AND FUELS Disposal, including chipping, burying, or removal to a landfill site approved by the local jurisdiction, of vegetation and debris caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to final clearance of the related permit. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
18.		FIRE020 - DEFENSIBLE SPACE REQUIREMENTS (HAZARDOUS CONDITIONS) Remove combustible vegetation from within a minimum of 50-feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional fire protection or firebreaks approved by the Reviewing Authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
19.		FIRE021 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD) The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

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		minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. (Salinas Rural Fire District)	Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
			Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	
20.		FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE) All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. (Salinas Rural Fire District)	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
21.		FIRE030 – OTHER NON-STANDARD CONDITIONS DRIVEWAYS – Due to the access issues associated with this lot, the driveway shall be permitted to exceed 15% grade. The driveway shall consist of deep-grooved concrete to provide maximum traction for fire apparatus. Also, a turnaround shall be provided at the end of the driveway. (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	