

RESOLUTION NO. 020008

A. P. # 173-074-036-000

In the matter of the application of
Daniel & Renee Luba TRS (PLN020008)

FINDINGS AND DECISION

to allow a **Combined Development Permit** in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of a Use Permit for the construction of a 6,052 square foot single family dwelling, and a Variance to exceed the height limit from 16 to 23 feet; located at 900 La Terraza Court, Monterey, west of Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula area, came on regularly for meeting before the Zoning Administrator on September 26, 2002.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

1. **FINDING:** The Luba application (PLN020008) is described as follows. A Combined Development Permit, consisting of: an Administrative Permit for the construction of a 6,052 square foot single family dwelling in a "VS" (Visually Sensitivity district); a Variance to increase the height limit from 16 to 23 feet; a Design Approval; and about 850 cubic yards of grading. The property is located at 900 La Terraza Court, (Assessor's Parcel Number 173-074-036-000), west of Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula area. The site is zoned "LDR/B-6-VS(16)" or Low Density Residential and Visual Sensitivity with a 16 foot height limit. The project, does not conform with the requirements and standards of the Monterey County Zoning Ordinance (Title 21). The subject property is in substantial compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.
 - EVIDENCE:** The Planning staff reviewed the project for compliance with Title 21 (Zoning Ordinance) and Section 17B of the Zoning Maps. These documents limit the height of the house to 16 feet. The applicant proposes a 23 foot high residence. Notwithstanding the 7 foot height increase the Administrative Permit is consistent with all other plans and policies for this area.
 - EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.
 - EVIDENCE:** The project planner conducted a site visit on February 14, 2002, to verify that the proposed project complies with the Monterey County Zoning Ordinance.
 - EVIDENCE:** Design Approval Request form with plans recommended for approval by the Greater Monterey Peninsula Land Use Advisory Committee noting that the project is not visible from Highway 68.
 - EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
2. **FINDING:** The proposed project will not have a significant environmental impact.
 - EVIDENCE:** Section #15303a of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

3. **FINDING:** There are no special circumstances, applicable to the subject property, including the size and shape, or surroundings, in which the strict application of Title 21 have been found to deprive subject property of privileges enjoyed by other properties in the vicinity under identical zone classification.
- EVIDENCE:** This lot is in a new subdivision with a map approved by the Board of Supervisors. The height constraints addressed were clearly indicated on the specific lots in the subdivision, as shown on the approved map.
- EVIDENCE:** This lot was clearly and correctly identified as to its zoning, with the 16 foot height limit, at the time of purchase of the lot.
- EVIDENCE:** Compliance with the 16 foot height would not render this lot unbuildable. As a result, denial of the variance would not create a hardship for the applicant.
- EVIDENCE:** There are no special circumstances applicable to this lot which warrants approval of a Variance. The lot is zoned “VS” or visual sensitivity. The Board of Supervisors placed the 16 foot height limit on the parcel to ensure protection of the public viewshed. At the time the lot was approved with the special height limit, there were no special circumstances that warranted a height limit greater than 16 feet.
4. **FINDING:** The Variance would constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- EVIDENCE:** Based on staff research, neighboring properties east and north of the project lot have single family residences which comply with the height constraint of 16 feet.
5. **FINDING:** The Variance would grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- EVIDENCE:** The zoning for this area is “LDR/B-6-VS-(16)” with a 16 foot height limit. The applicant proposes a single family residence 23 feet in height.
- EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.
6. **FINDING:** The establishment, maintenance, and operation of the proposed development applied for under the circumstances of the particular case, will 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 material, was reviewed by the Department of Planning and Building Inspection, Salinas Rural Fire Protection District, Public Works, Parks Department, Environmental Health Division, and the Water Resources Agency.
7. **FINDING:** The decision on this project is appealable to the Planning Commission.
- EVIDENCE:** Section 21.76.030.B of the Monterey County Zoning Ordinance (Title 21).

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be denied.

PASSED AND ADOPTED this **26th** day of **September, 2002**.

Original Signed By:

LYNNE MOUNDAY
ZONING ADMINISTRATOR

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 SECRETARY TO THE PLANNING COMMISSION 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.