

LYNNE MOUNDAY
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTIONNO. 020387

A.P. # 125-461-001-000

In the matter of the application of
Samuel & Dora Moreno (PLN020387)

FINDINGS & DECISION

for an Administrative Permit in accordance with Title 21 (Zoning) Chapter 21.70 (Administrative Permits) of the Monterey County Code, to allow cut and fill activities, a small amount of which is on slopes exceeding 30% on .75 acres, located at 10814 Assisi Way, Salinas, Greater Salinas area, came on regularly for meeting before the Zoning Administrator on April 10, 2003.

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

FINDINGS OF FACT

- 1. FINDING:** The proposed Administrative Permit (PLN020387) as described in the staff report and associated plans is consistent with the General Plan and Monterey County Zoning Ordinance. The Monterey County General Plan and North County Area Plan allows development on slopes over 30%, when substantial evidence demonstrates that either: (1) there is no feasible alternative which would allow development to occur on slopes of less than 30%; or (2) that the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives. Substantial evidence supports finding that 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 text and policies of the North County Area Plan and the Monterey County General Plan have been evaluated during the course of the review of this application. No conflict or inconsistencies with the text or the policies were found to exist. No testimony, either written or oral, was received during the course of public hearing to indicate that there is any inconsistency with the North County Area Plan or the Monterey County General Plan.

EVIDENCE: Materials in project file PLN020387 demonstrate that development alternatives would be inconsistent with the General Plan and North County Area Plan.

EVIDENCE: Chapter 14.04 of the Monterey County Code prohibits development that allows conditions for accelerated erosion to occur. This permit addresses development that occurred approximately six years ago. Restoration of the site six years after nominal grading would accelerate soil erosion and further damage existing vegetation that inhibits erosion.

EVIDENCE: Materials in project file PLN020387 and site visit by project planner on November 8, 2002.

EVIDENCE: Policy 26.1.10(A) & (B) of the Monterey County General Plan and Section 21.64.230(E) of the Zoning Code.
- 2. FINDING:** The conditions of approval comply with the provisions of Title 21.

EVIDENCE: The conditions are based on the recommendations of the local fire district, the Monterey County Water Resources Agency, Monterey County Environmental Health Department and Monterey

County Department of Public Works. The conditions incorporate the concerns and recommendations of those various agencies. Additional conditions required for approval assure that the proposed project is compatible with other development in the area.

EVIDENCE: Materials in project file PLN020387.

3. **FINDING:** The establishment, maintenance, or operation of the use (grading) will not under the circumstances of the particular case, be detrimental to health, safety, 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 materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Department, Code Enforcement Branch, Public Works Department, and the Water Resources 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.

EVIDENCE: Materials in project file PLN020387.

4. **FINDING:** The use of the proposed improvements is not likely to cause substantial environmental damage at this time.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Department, Code Enforcement Branch, Public Works Department, and the Water Resources 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.

EVIDENCE: Materials in project file PLN020387.

5. **FINDING:** There is a violation on the subject property involving the Monterey County Code Chapter 16.12.040; allowing condition causing or likely to cause accelerated erosion; Chapter 21.64.230; development on slopes in excess of 30% without a permit. Approval of the subject Administrative Permit would clear the existing violation.

EVIDENCE: Code Enforcement file CE000373 opened in November of 2000 documents an existing condition on the property that allows for or causes accelerated erosion.

EVIDENCE: Material in project file PLN020387 establishes that the applicant graded the subject site and the County right-of-way without requisite permits.

EVIDENCE: Encroachment Permit No. 02-102 documents the conditions of the Encroachment Permit, required to comply with Chapter 14.04 of the Monterey County Code.

EVIDENCE: Material in project file PLN020387 from the Code Enforcement Branch indicates that approval of the subject Administrative Permit would clear the existing violation.

EVIDENCE: No evidence exists in project file PLN020387 or in the Public Works Department Encroachment office that demonstrates that fill material that sloughed onto the adjacent property has been removed, as required by Encroachment Permit No. 02-102.

EVIDENCE: Site visit by project planner on November 8, 2002.

6. **FINDING:** The decision on this project is appealable to the Planning Commission.

EVIDENCE: Sections 21.86.030(A) and 20.86.080 of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Zoning Administrator, that said application for an Administrative Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The applicant shall complete a land survey performed by a qualified Land Surveyor that identifies the limits of the drainage parcel and the location of the fill. New monuments shall be placed by a qualified Land Surveyor to identify and distinguish among Assessor Parcel Numbers 125-461-001-000 and 125-461-002-000 (Davis property), and the County parcel between the two. **(Public Works Department)**
2. Any portion of the fill on the Davis property shall be removed. **(Public Works and Planning and Building Inspection Departments)**
3. Any exposed soils shall be stabilized and recompact sufficient to prevent further erosion. **(Public Works Department)**
4. The applicant shall construct a retaining wall no less than 18" high along the County parcel/Davis property boundary sufficient in length to prevent any sloughing of fill material onto the Davis property (APN125-461-002-000). **(Planning and Building Inspection Department)**

PASSED AND ADOPTED this **10th** day of **April, 2003**.

Original Signed By: _____

LYNNE MOUNDAY
ZONING ADMINISTRATOR

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 PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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.