

MIKE NOVO
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 030149

A. P. # 173-074-002-000

In the matter of the application of
William & Krisanta Silva (PLN030149)

FINDINGS & 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 removal of four Oak trees; a Use Permit for development on slopes greater than 30%; and Design Approval, located at 419 Estrella D'Oro, Monterey, east of the intersection of Via Del Milagro and Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula area, came on regularly for meeting before the Zoning Administrator on August 28, 2003.

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

- 1. FINDING:** The Combined Development Permit (Silva PLN030149) consists of a Use Permit for removal of two oak trees and transplanting of four oak trees, and a Use Permit for development on slopes greater than 30 percent; and Design Approval for construction of a 5,271 sq. ft. two-story single family residence. The property is located at 419 Estrella D'Oro, Monterey (Assessor's Parcel Number 173-074-002-000), east of the intersection of Via Del Milagro and Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula Area. The project, as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Zoning Ordinance (Title 21), the General Plan, and the Greater Monterey Peninsula Area Plan. The subject site is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.

EVIDENCE: The application and plans submitted for the Use Permit and Design Approval in project file PLN030149 at the Monterey County Planning and Building Inspection Department.

EVIDENCE: Design Approval Request form with plans and a recommendation for approval (3-1) from the Greater Monterey Peninsula Land Use Advisory Committee.

EVIDENCE: Site visit by staff on August 5, 2003.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, the Salinas Rural Fire District, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

2. **FINDING:** The tree removal is the minimum required under the circumstances of the case.
EVIDENCE: Site visit by staff on August 5, 2003.
EVIDENCE: Based on the Forest Management Plan prepared by Stephen R. Staub, Registered Professional Forester dated June, 2003. The tree removal and transplanting associated with the existing project is consistent with policies of the Monterey County Zoning Ordinance dealing with tree removal (Section 21.64.260). The report recommends measures to avoid adverse impacts to trees not identified for removal. Five specific measures are listed on Page 4 of the Forest Management Plan included as Exhibit F. The recommendations of the Forest Management Plan will be implemented as a condition of project approval. (See Condition No. 7).
EVIDENCE: Approximately one half of the .618-acre parcel is unavailable as a building site due to setback requirements. The trees identified for removal or transplanting all are located within the available building site area. This condition limits the ability to site a single family residence without impacting protected trees.
EVIDENCE: The landmark oak tree proposed for removal is diseased and injured and may be likely to promote the spread of insects and disease. The 35" oak has a basal fissure with internal decay and a cavity with wetwood and water. The lower limb has signs of decay in many places. Cavities and decay are more pronounced in this tree than in others on the site. Current coastal infestation of the oak moth caterpillars could spread to the site.
3. **FINDING:** The removal will not involve a risk of adverse environmental impacts such as soil erosion, water quality, ecological impacts, noise pollution, air movement or wildlife habitat.
EVIDENCE: The Forest Management Plan prepared by Stephen R. Staub, Registered Professional Forester dated June, 2003 documents measures to avoid adverse environmental impacts to the soil, water, ecology, noise, air and wildlife habitat on site. The report recommends measures to avoid adverse impacts to natural resources. These recommendations shall be implemented as a condition of project approval. (See Condition No. 7).
EVIDENCE: Materials in project file PLN030149 indicate that the applicant has agreed as a condition of the Use Permit to comply with and implement each of the Forest Management Plan's recommendations to avoid adverse impacts to the natural environment.
4. **FINDING:** The approved project will not have a significant adverse impact on the environment.
EVIDENCE: Section 15303(a) of the California Environmental Quality Act Guidelines (New Construction or Conversion of Small Structures) categorically exempts this project from environmental review. No significant environmental impacts were identified during project review.
EVIDENCE: Application materials in project file PLN030149.
EVIDENCE: Tree removal and transplanting would not result in significant environmental impacts on issues identified in Section 21.64.260.5(b) of the zoning ordinance. (See Findings and Evidence No. 3)
5. **FINDING:** The establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such approved use or be detrimental or injurious to property and improvement 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 Planning and Building Inspection Department, Environmental Health Department, the Public Works Department, Salinas Rural Fire District and the Water Resources Agency. 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: Application materials in project file PLN030149.

6. **FINDING:** 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: (a) The 30% slope was a man-made slope constructed when the adjacent building pad was created.

(b) The landmark oak tree will be protected by insuring adequate setbacks for the tree's roots.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The Combined Development Permit (Silva PLN030149) consists of a Use Permit for the removal of two oak trees and transplanting of four oak trees, and a use permit for development on slopes greater than 30 percent; and Design Approval for construction of a 5,271 sq. ft. two-story single family residence. The property is located at 419 Estrella D'oro, Monterey (Assessor's Parcel Number 173-074-002-000), east of the intersection of Via Del Milagro and Estrella Avenue, Pasadera Subdivision, Greater Monterey Peninsula Area. The land use entitlements conferred by this permit shall not 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 and all construction must be established as consistent with the Monterey County General Plan and the 'Low Density Residential/Building Site-6-Design Approval (LDR/B-6-D) Zoning District in Title 21 of the Zoning Code, the Greater Monterey Peninsula Area Plan and must be in conformance with the terms and conditions of this permit. 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 #030149) was approved by the Zoning Administrator for Assessor's Parcel Number 173-074-002-000 on August 28, 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. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection)**
4. The property owner shall pay a Highway 68 traffic impact fee of \$4,875.00. **(Public Works Department)**

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 runoff shall be directed to the existing storm water drainage system for the Pasadera Subdivision. (Water Resources Agency).
6. Prior to issuance of the Building Permit, Fire Department conditions shall be printed on the approved plans. (Salinas Rural Fire Protection District)
7. Four oak trees shall be transplanted and two oak trees shall be removed. All landscaping, oak tree transplants and (two oak trees) removal must be in accordance with the Forest Management Plan prepared by Stephen R. Staub, Registered Professional Forester dated June, 2003. Prior to issuance of grading and building permits, the applicant shall submit a plan to the Planning and Building Inspection Director that identifies the location of the trees to be transplanted. The applicant shall also submit a short and long term maintenance plan to ensure survivability of the transplanted trees. The transplanted trees shall be incorporated into the landscaping plan required by Condition No. 10. (Planning and Building Inspection)
8. 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)
9. Trees that are not identified for removal shall be protected by the placement of construction barrier fencing. Fill soil shall not be placed against the base of the trunks and soil depth shall not be increased at the feeding zone or drip line of the retained trees unless otherwise approved by a registered forester. Said protection shall be demonstrated photographically by the applicant and/or by the project planner's on-site inspection prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection Department)

Prior to Final Building Inspection/Occupancy:

10. The site shall be landscaped. At least three weeks prior to occupancy, three 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 project. Fees shall be paid at the time of landscape plan submittal. A tree relocation plan shall be submitted with the landscape plan or incorporated therein. (See condition No. 7) 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. (Planning and Building Inspection Department)
11. The applicant shall comply with Ordinance No. 3932 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)
12. All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. (Salinas Rural Fire District)
13. 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 numbers height of 3 inches with a 3/89 inch stroke, and contrasting with the background colors of the sign. (Salinas Rural Fire District)
14. Fire sprinklers shall be installed in attached garages. (Salinas Rural Fire District)
15. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals. (Salinas Rural Fire District)
16. The buildings shall be fully protected with automatic fire sprinkler systems. 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." (Garage Included) (Salinas Rural Fire District)

Continuous Permit Conditions:

17. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)

PASSED AND ADOPTED this 28th day of August, 2003.

Original Signed By:

MIKE NOVO
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.

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 Marina.

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