

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 030322

A.P. # 161-171-019-000

In the matter of the application of
Warren & Patricia Goldman (PLN030322)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for a waiver of the policy prohibiting development on 30% slope to allow the construction of three 4 foot high retaining walls and access steps across portions of a 30% slope; grading 241 cubic yards. The property is located at 93 Corral de Tierra Terrace, Salinas, west of Corral de Tierra Road, Toro area, came on regularly for hearing before the Zoning Administrator on April 29, 2004.

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

FINDINGS OF FACT

- 1. FINDING: CONSISTENCY & SITE SUITABILITY** – The Goldman Use Permit and Design Approval (PLN030322), as described in Condition #1 and as conditioned, is consistent with the plans, policies, requirements, and standards of the Monterey County General Plan, the Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21).
- The property is located at 93 Corral De Tierra Terrace, Toro area.
 - The property is zoned “MDR/B-6-D” or Medium Density Residential, Building site Zoning District and Design Control District.
 - The site is physically suitable for the use proposed.
- EVIDENCE:**
- (a) The application and plans submitted for the Use Permit and Design Approval in project file PLN030322 at the Monterey County Planning and Building Inspection Department.
 - (b) Staff conducted a site visit in August 2003 to verify that the proposed project complies with regulations in Title 21.
 - (c) The Toro Area Land Use Advisory Committee (LUAC) reviewed the project on September 22, 2003, and recommended approval (vote 4 to 0) with no recommendations.
 - (d) The “Geologic and Soil Engineering Report” prepared for this site by Grice Engineering, and Geology Inc (March 2003) concludes that the site is suitable for the proposed development provided recommendations in the report are incorporated in the project design and are implemented during construction.
 - (e) The Archaeological Report prepared by Archaeological Consulting dated September, 2003 concludes that the project parcel (Assessor’s Parcel Number: 161-171-019-000) contains no surface evidence of potentially significant archaeological resources therefore recommends the project should not be delayed for archaeological reasons provided recommendations in the report are followed
 - (f) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Salinas Rural Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and the Monterey County Health Department. There has been no indication from

these 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. No development is proposed within the scenic easement.

2. **FINDING: CEQA (Exempt)** - The project is categorically exempt from environmental review.
EVIDENCE: CEQA Guidelines Section 15304 Exempts minor alterations to land. The project as described in condition 1 would not have the potential for causing a significant adverse effect on the environment for the following reasons:
 - (a) No adverse environmental effects were identified during staff review of the development application and during the site visit. There are no environmentally sensitive habitats or trees that would be impacted. There are no unusual circumstances related to the project or property. Visual impacts would not be significant.
 - (b) The 30 to 34 percent slopes, that are the primary subjects of this permit, occur on man made slopes. Minor trenching and back filling will reconstitute the eroded slope by the use of three retaining walls four feet in height. The total amount of soil that will be affected is 241 cubic yards, which will remain in the project area as compacted fill.
 - (c) The applicant is required to comply with Title 16 Erosion Control Ordinance Section 16.12.10 and 20. These recommendations are included as permit conditions and are consistent with the Toro Area Plans mitigation measures addressing increased erosion as a result of clustered residential development.
 - (d) See preceding and following findings and supporting evidence.

3. **FINDING: 30 PERCENT SLOPE WAIVER** - The proposed development better achieves the goals, policies, and objectives of the Monterey County General Plan and the Toro Area Plan.
EVIDENCE:
 - (a) The three proposed retaining walls will be used to stabilize an eroded area across a portion of man-made slopes averaging approximately 30 to 34 percent. The current slopes were created as a result of constructing a single-family dwelling within a parcel of an approved subdivision. The Toro Area Plan Area Development Land Use Policy encourages clustered residential development. Soil impacts due to increased erosion from clustered residential development shall be mitigated by the enforcement of the Counties Erosion Control ordinance
 - (b) Title 16.12 Erosion Control Ordinance as defined by Scope section 16.12.020.
 - (c) Materials in file and applicant's letter of justification for a waiver of the policy prohibiting development on slopes exceeding 30 percent.

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

5. **FINDING: HEALTH AND SAFETY** - 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: Preceding findings and supporting evidence.

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

EVIDENCE: Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Zoning Administrator 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 29th day of April 2004.

Original Signed By:

MIKE NOVO
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

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.