

RESOLUTION NO. **040265**

A.P. # **416-301-020-000**

In the matter of the application of
James and Martha Hayes (PLN040265)

FINDINGS & DECISION

for a Variance to Section 21.42.030F, in accordance with Title 21 (Zoning) Chapter 21.72 (Variances) of the Monterey County Code, to allow a variance to encroach upon front and side yard setbacks and Design Approval for a proposed Guesthouse; project is located at 271 San Benancio Canyon Road, Salinas, on a shared private road southerly from the intersection of San Benancio Canyon Road and Corral De Tierra, Toro Area, came on regularly for hearing before the Zoning Administrator on December 9, 2004.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto, now makes the following findings and decision:

- 1. FINDING:** The subject Variance and Design Approval (**Hayes; PLN040265**), as described in condition #1 is a Variance request for the encroachment of a Guesthouse into front and side yard property setbacks required by Zoning Ordinance (Title 21). The property is located at 271 San Benancio Canyon Road, Salinas (Assessor's Parcel Number 416-301-020-000), on a shared private road southerly from the intersection of San Benancio Canyon Road and Corral De Tierra in the Toro Plan Area.

The parcel is zoned "Low Density Residential" or LDR, 1 unit/5 acres - Design Control District. Except for the Variance request, the project, as conditioned, conforms with the plans, policies, requirements, and standards of the General Plan, Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and the Toro Area Plan.

EVIDENCE: The application, plans, and photos submitted for the Variance, including the justification letter, in the project file (PLN040265) at the Monterey County Planning and Building Inspection Department.

EVIDENCE: The project planner conducted a site visit 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 Toro Land Use Advisory Committee.

EVIDENCE: Chapter 21.14 and §21.14.020 of the Monterey County Zoning Ordinance, Title 21. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: Evidence to support only a front setback variance has been submitted for this project.

- 2. FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE: Section 15303 (c) 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.

EVIDENCE: Evidence and support only front setback variance has been submitted for this project.

- 3. FINDING:** Because of special circumstances applicable to subject property, including size, shape, topography, location, or surroundings, the strict application of Title 21 is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

EVIDENCE: The proposed Guesthouse will be placed on the only undeveloped portion of the property—the southwest corner at 10 feet from the front right-of-way. The long, rectangular shape of the subject property (156.45 feet X 85.02 feet) accommodates an existing swimming pool at the rear, leaving approximately 50 feet of width to place the guesthouse longitudinally (28 feet X 18 feet when including the 15 foot high parapet along the side yard) in order to leave 33 feet from the main residence for driveway access and guest parking.

EVIDENCE: The application and plans submitted for the Variance, including the justification letter, in the project file PLN040265 at the Monterey County Planning and Building Inspection Department.

- 4. FINDING:** The Variance does not 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: Staff witnessed two other residences on the shared private road, both non-conforming parcels as to size in this same Low Density Residential district, with accessory or secondary residences.

EVIDENCE: The applicant shall provide site plans that designate two additional, *off-street* guest parking spaces serving the residence and guesthouse pursuant to 21.58.040 of the Zoning Ordinance (Title 21) in addition to the one existing, covered parking space serving the residence. Removal of the applicant’s designated parking spaces *on street* within the existing private right-of-way and along the frontage of the neighboring parcel (Assessor Parcel Number 416-301-022) shall be removed to avoid the granting of special parking privileges provided the subject property that is not provided to other properties in the vicinity (Condition No. 6).

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: Memorandum from planning staff dated January 5, 2005.

- 5. FINDING:** The Variance does not grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: The use is an allowed use within the Low Density Residential District per Section 21.14.030 B., “Guesthouses meeting the development standards of Section 21.64.020.”

EVIDENCE: Apart from the requested Variance, the Guesthouse meets the development standards of Section 21.64.020 of the Zoning Ordinance (Title 21).

- 6. FINDING:** The qualifications of Findings 3 and 4 apply to the land, structure, or use of which the Variance is sought.

EVIDENCE: The Variance is a request to encroach on front and side yard setbacks established as development standards for accessory habitable structures. As described in Findings 3 and 4, a Variance can only be approved where the limitation causing the Variance request meets all of the following criteria: 1) a physical constraint related to the subject property, 2) deprives the property of privileges enjoyed by other similarly situated properties, and 3) the Variance would not be a grant of special privileges inconsistent with other similarly

situated properties. See evidence for Findings 3 and 4.

7. **FINDING:** The project is appealable to the Planning Commission.
EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for Variance be granted as shown on the attached sketch, and subject to the attached conditions.

PASSED AND ADOPTED this 9th day of December 2004.

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.

Planning and Building Inspection Department Condition Compliance & Mitigation Monitoring and/or Reporting Plan	Project Name: HAYES File No: PLN040265 Approval by: ZONING ADMINISTRATOR	APN: 416-301-020-000 Date: 12/9/2004
---	---	---

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1.		<p>SPECIFIC USES ONLY</p> <p>The subject Variance including a Design Approval (Hayes; PLN040265), allows for a variance to encroach upon front setbacks and Design Approval for a proposed Guesthouse. The project is located at 271 San Benancio Canyon Road, Salinas (Assessor's Parcel Number 416-301-020-000), southward from the intersection of San Benancio Canyon Road and Corral De Tierra, Toro Area.</p> <p>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	

**PLANNING & BUILDING INSPECTION DEPARTMENT
CONDITIONS OF APPROVAL**

2.		<p>NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice that states, "A permit (Resolution 040265) was approved by the Zoning Administrator for Assessor's Parcel Number 416-301-020-000 on December 9, 2004. The permit was granted subject to 17 conditions of approval that 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)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of building permits.	
3.		<p>DEED RESTRICTION - USE</p> <p>Prior to the issuance of a building permit, the applicant shall record a deed restriction as a condition of project approval stating the regulations applicable to the Guesthouse. (Planning and Building Inspection)</p>	Submittal of approved and Recorded Deed Restriction to PBI.	Owner/ Applicant	Prior to Issuance Building Permits	
4.		<p>LIGHTING – EXTERIOR LIGHTING PLAN</p> <p>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 that 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 Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection)</p>	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
5.		<p>UTILITIES - UNDERGROUND</p> <p>All new utility and distribution lines shall be placed underground. (Planning and Building Inspection; Public Works)</p>	None	Applicant/ Owner	Ongoing	

6.	<p>EASEMENT STAKING</p> <p>The existing right-of-way easement shall be staked in front of the property with 18” stakes at ten (10) feet intervals along the curve of said easement. The staking shall be consistent with recorded easement lines as indicated in the official record at the Monterey County Planning and Building Inspection Department. The staking shall be verified at the pre-site inspection by the building inspector to be assured that the existing propane gas tank and proposed Guesthouse is within the subject property line, and not within the existing easement. Removal of the delineated, on-street parking area at the curve of the right-of-way fronting on neighboring APN 416-301-022-000 shall be required. (Planning and Building Inspection)</p>	<p>The easement(s) and proposed grading shall be staked with 18” stakes at ten (10) feet intervals. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at the Monterey County Planning and Building Inspection Department.</p>	<p>Owner/ Applicant</p>	<p>At presite insp. by the building inspect- tor</p>	
----	--	---	-----------------------------	--	--

**WATER RESOURCES AGENCY
CONDITIONS OF APPROVAL**

7.		<p>WATER CONSERVATION MEASURES</p> <p>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> <p>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.</p> <p>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)</p>	<p>EH11 - SEPTIC SYSTEM DESIGN</p> <p>Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions," Central Coast Basin Plan, RWQCB. (Environmental Health)</p>	<p>Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.</p>	<p>CA Licensed Engineer /Owner/ Applicant</p>	<p>Prior to filing the final parcel map or issuance of building</p>
----	--	---	--	---	---	---

**ENVIRONMENTAL HEALTH DIVISION
CONDITIONS OF APPROVAL**

8.		<p>EH11 - SEPTIC SYSTEM DESIGN</p> <p>Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions," Central Coast Basin Plan, RWQCB. (Environmental Health)</p>	<p>Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.</p>	<p>CA Licensed Engineer /Owner/ Applicant</p>	<p>Prior to issuance of building permits</p>	
----	--	--	---	---	--	--

**SALINAS RURAL FIRE DISTRICT
CONDITIONS OF APPROVAL**

9.	<p>DRIVEWAYS</p> <p>Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. 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. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. (Salinas Rural Fire District)</p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance building permit.	
		Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
10.	<p>GATES</p> <p>All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road, except as approved by the fire</p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

		district. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
11.		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 final building inspection.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	

12.		<p>FIRE014 - EMERGENCY WATER STANDARDS - FIRE PROTECTION WATER SUPPLY - (SINGLE PARCEL)</p> <p>For development of structures totaling less than 3,000 square feet on a single parcel, the minimum fire protection water supply shall be 4,900 gallons. For development of structures totaling 3,000 square feet or more on a single parcel, the minimum fire protection water supply shall be 9,800 gallons. For development of structures totaling more than 10,000 square feet on a single parcel, the reviewing authority may require additional fire protection water supply. Other water supply alternatives, including ISO Rural Class 8 mobile water systems, may be permitted by the fire authority to provide for the same practical effect. The quantity of water required by this condition shall be in addition to the domestic demand and shall be permanently and immediately available. (Salinas Rural Fire District)</p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
13.		<p>FIRE HYDRANTS/FIRE VALVES</p> <p>A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet or further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall</p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance building permit.	

		include a brass head and valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4-inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post, or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
14.		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.	
15.		FIRE EXTRA HAZARD MITIGATION FOR VARIANCE OF SETBACK: If required by the fire district, the following shall be constructed: <ul style="list-style-type: none"> • "Boxed In" eaves or soffits • Non combustible siding • Dual Panned tempered glass windows • 45 min. fire rated doors and assemblies that are self-closing and self-sealing. • All decks or accessory structural features shall be non-combustible in nature 	Applicant shall 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.		<p>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 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.</p>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
			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	
17.		<p>DEFENSIBLE SPACE REQUIREMENTS - Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire 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)</p>	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	