

**MONTEREY COUNTY PLANNING COMMISSION**

<b>Meeting:</b> October 29, 2008; 9:00 A.M.	<b>Agenda Item No.:</b> 2
<b>Project Description:</b> Combined Development Permit consisting of: (1) Amendment to the Hidden Hills Estates Subdivision Final Map; (2) Variance to reduce the required front yard setbacks from 50 feet to 0 feet along Whip Road; (3) Use Permit and Design Approval for development of a new 12,116 sq. ft. two-story single-family residence in the Visual Sensitivity or “VS” Zoning District including an indoor swimming pool (1,473 sq. ft.), an attached 4-car garage (1,157 sq ft) and a detached accessory structure (3,280 sq ft), 7,640 cubic yards of grading (6,320 cut/1,320 fill), and the relocation of one 18-inch diameter oak tree; (4) Use Permit for ridgeline development; and (5) Administrative Permit for a detached 1-story caretaker unit (965 sq. ft.). The property is located at 11395 Saddle Road, Hidden Hills area, (Assessors Parcel Number 416-131-023-000), Greater Monterey Peninsula Area Plan.	
<b>Project Location:</b> 11395 Saddle Road, Hidden Hills area.	<b>APN:</b> 416-131-023-000
<b>Planning File Number:</b> PLN060575	<b>Owner:</b> Curtis Angton <b>Representative:</b> Scott Stotler, Architect <b>Agent:</b> Christine Kemp, Esq.
<b>Plan Area:</b> Greater Monterey Peninsula Area Plan	<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> LDR/B-6 (VS) (20’) (Low Density Residential, with Building Site Review and Visual Sensitivity overlays and a 20-foot height limitation.)	
<b>CEQA Action:</b> Exempt from CEQA per Sections 15061(b).4 and 15270.(a) of the CEQA Guidelines	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend to the Board of Supervisors denial of the Combined Development Permit based on the Findings and Evidence in Exhibit C.

**PROJECT SUMMARY:**

Mr. Curtis Angton owns a vacant, 2-acre parcel located at 11395 Saddle Road, within the Hidden Hills Estates Subdivision (Exhibit “F”). The parcel is located along the ridgeline south of Highway 68, and is zoned “LDR/B-6-VS (20’)” or Low Density Residential, with Building Site Review and Visual Sensitivity zoning overlays and a 20-foot height limitation. An approximately 7,200 sq. ft. building envelope was designated on the lower central portion parcel as part of the Hidden Hills Estates Subdivision approval. There are some areas with slopes greater than 30% located along the lower northeastern portion and an easement for Whip Road along the western border. A small hill with a grove of six Coast Live Oaks is located on the upper southeastern area on the parcel.

The owner requests an amendment to the Hidden Hills Estates Subdivision Final Map in order to expand the building envelope from 7,200 square feet to into two envelopes totaling 15,445 square feet across the ridgeline. If this amendment is approved, Mr. Angton proposes to construct a new 12,116 sq. ft two-story single-family residence with indoor swimming pool and a 4-car garage, and a 3,280 sq. ft. 1-story detached structure consisting of a 965 sq. ft. caretaker unit and a 2,315 sq. ft. 8-car garage. Whip Road along the south side creates a second frontage, and the application includes a variance request to reduce the set back from 50 feet to 0 feet for the detached structure. Development of the project would require relocation of a single oak tree (approximately 18” in diameter).

The original building envelope and height limit were established to limit the size, height, and location of structures along the ridgeline to protect the visual character of the area and to reduce potential visual impacts from public viewing areas. The building envelope was relocated to a higher location through a Certificate of Correction in 1996. The relocated building envelope would allow some ridgeline development. The new building envelope area is proposed to be 15,445 sq. ft. with total development area of 15,396 sq. ft. Staff finds that expanding this envelope would significantly increase ridgeline development, and there are reasonable alternatives available.

**OTHER AGENCY INVOLVEMENT:**

- ✓ Salinas Rural Fire Protection District
- ✓ Public Works Department
- ✓ Parks Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The Greater Monterey Peninsula Land Use Advisory Committee (LUAC) reviewed the application on August 6<sup>th</sup>, 2008 (**Exhibit J**). The LUAC recommended approval with a vote of 3-0, with one member abstaining and one member absent. The committee recommended that two separate building envelopes be created for the single-family residence and detached caretaker unit/8-car garage. Additionally the committee also recommended that the project site be landscaped, have a lighting plan and recommended prior approval by the committee or by staff of the colors for the proposed buildings.

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/r/ David Heinlein, Associate Planner  
(831) 755-5304  
[heinleind@co.monterey.ca.us](mailto:heinleind@co.monterey.ca.us)  
October 8, 2008

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Luis A. Osorio, Planning Services Manager  
(831) 755-5177  
[osoriol@co.monterey.ca.us](mailto:osoriol@co.monterey.ca.us)

cc: Front Counter Copy; Planning Commission Members (10); County Counsel; Salinas Rural Fire Protection District; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; Luis Osorio, Planning Services Manager; David Heinlein, Project Planner; Carol Allen; Curtis Angton, Applicant; Scott Stotler, Architect; Christine Kemp, Attorney; File PLN060575.

Attachments:

Exhibit A	Project Data Sheet
Exhibit B	Discussion
Exhibit C	Recommended Findings and Evidence
Exhibit D	Site Plan, Floor Plan and Elevations
Exhibit F	Existing and proposed building envelopes
Exhibit F	Vicinity Map
Exhibit G	Variance Justification
Exhibit H	Certificate of Correction reflecting existing building envelope
Exhibit I	Visibility Map
Exhibit J	LUAC Minutes
Exhibit K	Memorandum from the Salinas Rural Fire Protection District
Exhibit L	Memorandum from the Public Works Department
Exhibit M	Memorandum from the Home Owners Association)
Exhibit N	Project Correspondence

**EXHIBIT B**  
**DISCUSSION**  
**PLN060575/Angton**  
**October 29, 2008**

The subject property slopes northwest with some slopes over 30% located along the lower northern and northwestern portion of the property. A small hill runs east to west across the site creating a ridge that is visible from Highway 68 and the Laguna Seca recreational area. There is a grove of six oaks (25", two-14" and three-18"-diameter) located towards the frontage portion of the property from Saddle Road. Another tree approximately 18 inches in diameter is located adjacent to the northern boundary of proposed project and is proposed to be relocated. This particular parcel is considered a corner lot due to the existence of a 60-foot side fire access easement (Whip Road), which encumbrances approximately 30 feet of the subject parcel along the western edge of the parcel. The property line extends to the center of the Whip Road easement.

**Map Amendment (Building Envelope)**

The Hidden Hills Estates Subdivision Final Map contains several parcels, including the subject parcel, with designated building envelopes. An EIR (EIR No. 80-111) prepared for the subdivision identified potential visual impacts for lots created along the ridgeline. The building envelopes were established to reduce visual impacts caused by ridgeline development and to maintain the visual character of the area. The size of the building envelope on the subject parcel is approximately 7,200 square feet and was originally located on the lower central portion of the parcel away from Saddle Road (Exhibit F). The envelope was relocated to a higher location on the parcel through a Certificate of Correction (Exhibit H) recorded by the applicant on June 17, 1996.

The proposed project includes a request to expand the building envelope into two-separate building envelopes totaling 15,445 sq. ft. as follows:

- 1) An 11,398 sq. ft. envelope for an 12,116 sq. ft. two-story single-family residence; and
- 2) A 4,047 sq. ft envelope for a detached caretaker unit and 8-car garage.

Provisions of Chapter 19.08.015 A of the Subdivision Ordinance (Title 19) and Sections 66469 and 66472.1 of the Subdivision Map Act establish that final or parcel maps may be amended by a certificate of correction or an amending map. Staff has reviewed these provisions and has determined that the proposed amendment does not qualify for a certificate of correction and therefore it requires an amendment to the Hidden Hills Estates Subdivision Final Map.

**Ridgeline Development**

Expansion of the building envelope as proposed would create an enlarged building area across the majority of the parcel thereby increasing the amount of ridgeline development allowed. The General Plan and the Greater Monterey Peninsula Area Plan include policies that regulate ridgeline development. Policy 26.1.9 of the General Plan requires a permit for ridgeline development and states that "*such permit only be granted upon findings being made that the development as conditioned by permit will not create a substantially adverse visual impact when viewed from a common public viewing area.*" Policy 26.1.9.1 of Greater Monterey Peninsula Area Plan requires that "*development on canyon edges and hilltops shall be designed to minimize the visual impacts of the development.*" These policies are codified in Section 21.06.950 of the Zoning Ordinance. The ordinance defines ridgeline development as "*the development on the crest of the hill which has the potential to create a silhouette or other substantial adverse impact when viewed from a common public viewing area.*" Section 21.66.010 of the Ordinance further provides that ridgeline development requires a use permit which only may be approved if a

finding can be made that *“the ridgeline development, as conditioned by permit, will not create a substantially adverse visual impact when viewed from a common public viewing area.”*

The applicant proposes the expansion of the existing building envelope and the development of the described single family dwelling all across the majority of parcel. The project would be visible as ridgeline development from Highway 68, a State-designated Scenic Corridor. Specifically, the project would be visible from a portion of the highway, for approximately 4 seconds when traveling at 55 miles/hour. The project would also be visible as ridgeline development from some areas within the Laguna Seca recreational area. Specifically, the proposed dwelling would be visible from the main access/egress road when leaving the area towards Highway 68 for about 8 seconds and from some of the campgrounds which are common public viewing areas (**Exhibit I**).

Based on several site visits and evaluation of the potential visibility represented by the netting placed on the property, staff concludes that the project has not been designed to minimize visual impacts and that it would result in a substantial adverse impact when viewed from Highway 68 and parts of the Laguna Seca Recreation Area. Therefore, the project is inconsistent with the policies of the General Plan and the Area Plan, and the finding required by Section 21.66.010 of the Zoning Ordinance cannot be made.

### **Development in the Visual Sensitivity Zoning District**

The project site is located in a Visually Sensitive or “VS” Zoning District. The provisions of Section 21.46.030.C of the Zoning Ordinance require that to approve development in this zoning district a finding shall be made that the project “will not create a significant adverse visual impact when viewed from a common public viewing area.” As stated above, the project would be visible from a portion of Highway 68 and from portions of the Laguna Seca recreational area. The visibility of the project from these areas would constitute ridgeline development resulting in significant adverse visual impacts. Staff has not been able to identify conditions of approval that would reduce the visual impacts. Therefore staff cannot make the finding necessary for approval of the project under Section 21.46.030 C of the Ordinance.

### **Variance**

Due to the location of an easement for fire access on the western portion of the property, the site is considered a “corner” lot and therefore, all structures must maintain front yard setbacks from the edge of the easement and from Saddle Road. The property line extends to the center of the Whip Road easement.

A detached accessory structure (caretaker unit/garage) is proposed to be located along the Whip Road easement boundary at the edge of the right-of-way, 30 feet from the property line. Title 21, Sections 21.14.060.C.2 (a) and 21.14.060.3 (a) of the Zoning Ordinance requires a 50-foot front yard setback measured from the edge of the easement. With the expansion of the building envelope as proposed, a variance is needed for reduction of the front-yard setback requirement from the required 50-foot setback to a zero feet setback from the edge of the access easement.

The Zoning Ordinance requires that all three of the following findings must be made or the variance shall be denied:

- (1) because of special circumstances applicable to the subject property, the strict application of zoning regulations would deprive the subject property from privileges enjoyed by other properties in the vicinity and under identical zoning classification;
- (2) the variance 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; and
- (3) the project is an allowed use.

Configuration of the subject site as a corner lot is not a special circumstance limiting development on the site. Even though the fire access easement (Whip Road) is only intended for use in emergencies, its size and location relative to the configuration and size of the parcel do not significantly reduce the development potential of the parcel. The size and configuration of the lot allows the applicant to develop a project compatible in size and character to other projects within the Hidden Hills Estates Subdivision with similar building envelopes. Development of other parcels with designated building envelopes and with similar zoning have been designed and built within those envelopes.

Granting a variance would establish precedence for a privilege not enjoyed by any other property in the vicinity. Staff researched the area and found no set back variances granted for any homes located along Whip Road. The only variance was applied to directly north of the project site where a variance was approved for development of a driveway on slopes greater than 30%.

Staff finds that the need for the variance results directly from the size of the proposed development and the expansion of the building envelope to the easement line, and not from physical constraints, limitations or other special circumstances of the subject parcel. In addition, the subject parcel contains additional areas where the development of a project similar to the one proposed could be achieved. Therefore, planning staff has concluded that there are no special circumstances on the property that would deprive the applicant from privileges enjoyed by other properties in the vicinity under identical zoning classification, and that granting the proposed variance would be a special privilege in that the project's size and visual impacts would exceed those of the projects developed in the lots within the subdivision with similar limitations (building envelopes and zoning designation). Under these circumstances, the findings required under Sections 21.72.040 A, B and C of the Zoning Ordinance cannot be made to support the variance.

Note: The applicant prepared a statement of justification for the variance, dated August 21, 2008 (**Exhibit G**).

## **Conclusion**

Based on review of the proposed project plans, several site visits, and the discussion above, planning staff concludes that:

1. Allowing a map amendment to increase the building envelope across the project site, would result in a significant increase in the potential for ridgeline development and corresponding visual impacts; in addition, the amendment would be inconsistent with the findings of the EIR prepared for the Hidden Hills Subdivision and with the mitigation measures and conditions of approval contained in the Board of Supervisors resolution of approval of that subdivision (Resolution No. 81-537).
2. That those impacts would not be consistent with the intent of the cited policies of the General Plan and the Greater Monterey Peninsula Area Plan; and would be contrary to the purpose of the Regulations for Ridgeline Development and the Regulations for Development in the Visual Sensitivity or "VS" Zoning District; and
3. Staff finds that there are alternatives to expand the building envelope. For example, there is area toward Saddle Road that would allow development on the back side of the ridgeline.
4. The findings required by the Zoning Ordinance for the approval of the variance cannot be made.

Therefore, staff recommends that the Planning Commission recommend that the Board of Supervisors deny the Combined Development Permit application. As an alternative, the Commission could direct the applicant to redesign the project in a manner that can be supported by staff and to bring back the redesigned project before the Commission for consideration and a potential recommendation for approval to the Board of Supervisors.

**EXHIBIT C**  
**RECOMMENDED FINDINGS AND EVIDENCE**  
**PLN060575/Angton**  
**October 29, 2008**

1. **FINDING:** **CONSISTENCY** – The project, as described does not conform to the policies, requirements, and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, Greater Monterey Peninsula Area Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21).

- EVIDENCE:**
- (a) The property is located at 11395 Saddle Road, in the Hidden Hills Subdivision, (Assessor's Parcel Number 416-131-023-000), Greater Monterey Peninsula Area Plan. The parcel is zoned ("LDR/B-6-(VS) (20'") or Low Density Residential, with B- 6 and Visual Sensitivity zoning overlays and a 20-foot height limit.
  - (b) The proposed project includes the expansion of the existing building envelope across the majority of the parcel and the development of a single family dwelling within the expanded envelope. Development of the proposed dwelling within the expanded building envelope would be visible from Highway, a State-designated Scenic Corridor, and from some areas within the Laguna Seca recreational area considered as public viewing areas. Visibility of the dwelling from these areas would create a silhouette against the sky and constitute ridgeline development as defined in Section 21.06.950 of the Zoning Ordinance.
  - (c) The project is inconsistent with the provisions of Chapter 21.66 (Regulations for Ridgeline Development) of the Zoning Ordinance, which require a finding that "the ridgeline development, as conditioned by permit, will not create a substantially adverse visual impact when viewed from a common public viewing area." Staff has concluded that development of the dwelling would result in a significant visual impact as seen from public viewing areas. This conclusion is based on: (1) the duration of the visibility of the dwelling from public viewing areas; (2) the mass of the proposed dwelling; (3) the resulting change in the visual character of a parcel for which a building envelope was previously designated to restrict development and potential visual impacts; and (4) the applicant has not proposed and staff has not been able to identify any viable conditions that would reduce the visual impacts.
  - (d) The project is inconsistent with the provisions of Chapter 21.46 (Regulations for Development in the Visual Sensitivity or "VS" Zoning District) of the Zoning Ordinance, which require a finding that the project "will not create a significant adverse visual impact when viewed from a common public viewing area." Staff has concluded that development of the dwelling would result in a significant visual impact as seen from public viewing areas. This conclusion is based on: (1) the duration of the visibility of the dwelling from public viewing areas; (2) the mass of the proposed dwelling; (3) the resulting change in the visual character of a parcel for which a building envelope was previously designated to restrict development and potential visual impacts; and (4) the applicant has not proposed and staff has not been able to identify any viable conditions that would reduce the visual impacts.

- (e) The expansion of the proposed building envelope and the construction of the proposed single-family dwelling and accessory structure would be inconsistent with the findings of Environmental Impact Report (EIR No. 80-111) regarding visual impacts and with the mitigation measures and conditions of approval (Condition No. 42) of the Board of Supervisors resolution of approval of the Hidden Hills Subdivision (Resolution No. 81-537).
- (f) The project is inconsistent with Policy No. 26.1.9 of the General Plan requires that a permit for ridgeline development can only be granted upon findings being made that the development as conditioned by permit will not create a substantially adverse visual impact when viewed from a common public viewing area.” This finding cannot be made based on the reasons discussed in items (c) and (d) above.
- (g) The project as proposed does not comply with policy 29.1.9.1 of the Greater Monterey Peninsula Area Plan which requires that “development on canyon edges and hilltops shall be designed to minimize the visual impacts of the development.” The expansion of the existing building envelope and the development the proposed dwelling as designed, would maximize ridgeline development on the parcel and result in significant visual impacts.
- (h) The project as proposed triggers the need for a variance to reduce required front yard setbacks for a detached accessory structure in effect creating a special circumstance. The project could be redesigned to not require the variance and in addition the variance request would constitute a special privilege on the parcel where other parcels with the same zoning or parcels in the immediate vicinity have been developed within their respective building envelopes.
- (i) The project was referred to the Greater Monterey Land Use Advisory Committee (LUAC) on August 6<sup>th</sup>, 2008 for review. The committee recommended that two separate building envelopes be created to reduce visual impacts. While this recommendation would reduce potential ridgeline development and visibility, the project would still result in additional ridgeline development and significant adverse visual impacts.
- (j) Site inspections conducted by staff on June 4<sup>th</sup>, May 22<sup>nd</sup> and August 6<sup>th</sup>, 2008.
- (k) Discussion contained in Exhibit B of the October 29, 2008 Planning Commission Staff Report.
- (l) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060575.

2. **FINDING: SITE SUITABILITY** – The site is physically unsuitable for the proposed use.

**EVIDENCE:** (a) The approval of the Hidden Hills Estates Subdivision map included the designation of a building envelope on the subject parcel as the area suitable for development on the parcel and as the area were development could take place in compliance with the spirit and the intent of the policies of the General Plan designed to protect the visual character of the County. Expansion of the building envelope and the development of the proposed dwelling would be contrary to those policies and would in effect invalidate the evaluation of visual impacts conducted for the Subdivision.



- (b) The project as proposed would double the size of the existing building envelope which significantly increases the ridgeline development potential as well as the visibility and corresponding visual impacts from Highway 68 and the Laguna Seca recreation area.
- (c) The project as proposed does not comply with the LDR (Low Density Residential) zoning requirements in that the project would necessitate a variance to reduce the required front-yard setback from 50-feet to a zero foot front yard setback. The project as proposed does not meet the minimum LDR zoning requirements and there are feasible alternatives for the proposed development.

3. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

**EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15061(b) (4) states that the California Environmental Quality Act does not apply to projects which a public agency rejects or disapproves.  
 (b) See preceding and following findings and supporting evidence.

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

**EVIDENCE:** Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on the subject property.

5. **FINDING: VARIANCE/SPECIAL CIRCUMSTANCE** - There are no special circumstances applicable to subject property, including size, shape, topography, location or surroundings, that would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification

**EVIDENCE:** (a) The subject two-acre parcel has a Visual Sensitivity zoning designation and a 20-foot height restriction. These development limits are similar to restrictions imposed on other lots within the Hidden Hills Estates Subdivision. Said restrictions were imposed to assure that development would comply with the policies of the General Plan and Area Plan, and that development be designed to minimize visual impacts and ridgeline development and to maintain the visual and scenic character of the hills in the area. As such, these restrictions do not constitute a special circumstance that would deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.  
 (b) A 7,200 sq ft building envelope provides sufficient area to build a reasonable size home consistent with other homes in the area under the same visual restrictions. Alternative designs are possible on the property that would allow development of a similar project without resulting in significant adverse visual impacts and in compliance with the applicable regulations of the zoning district.  
 (c) A 30-foot wide easement for Whip Road, located on the western side of the property, creates a second front set back requirement similar to a corner lot. However, the configuration and size of the subject parcel does not significantly reduce the potential to develop the site in a manner

similar to other developments on lots in the area under identical zoning classification.

- (d) The need for the variance results directly from the desire to expand the existing building envelope to the easement line in order to support the proposed development, and not from physical constraints, limitations or other special circumstances of the subject parcel.

6. **FINDING: VARIANCE/SPECIAL PRIVILEGE** - The proposed 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:** (a) The proposed project includes expanding the designated building envelope from 7,200 sq. ft. into two building envelopes totaling 15,445 sq. ft. and the development of an approximately 12,116 sq. ft. single family dwelling plus a 3,280 sq. ft. accessory structure. The size of the proposed building envelopes and dwelling are significantly larger than building envelopes and dwellings in other properties within the Hidden Hills Estates Subdivision designated and built to protect the visual character of the area. From this point of view, the expansion of the building envelope and construction of the dwelling would be inconsistent with the limitations upon other properties within the subdivision.

- (b) The expansion of the designated building envelope and the development of an approximately 12,116 sq. ft. single family dwelling and 3,280 sq. ft. accessory structure would constitute ridgeline development and result in significant visual impacts. The visual impacts would be inconsistent with the reduced impacts which resulted from the construction of single family dwellings within the designated building envelopes in other properties within the Hidden hills Subdivision. The added visual impacts would constitute a special privilege not granted to those properties.

- (c) No other variances have been granted to reduce the required set back from the Whip Road easement.

7. **FINDING: VARIANCE/ALLOWED USE** - A Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

**EVIDENCE:** The proposed single family dwelling and accessory structure are allowed uses per the property's zoning classification provided they are built per the applicable site development standards.

8. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.

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