



Monterey County

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Board Order

Upon motion of Supervisor Potter, seconded by Supervisor Salinas, and carried by those members present, the Board of Supervisors hereby:

- Held a Public hearing continued from March 19, 2013 and adopted Resolutions 13-136 and 13-137 to:
- a. Grant Appellant's request to waive the appeal fee and authorize the RMA-Planning Director to refund the appeal fee (Resolution 13-136); and
 - b. Set aside the decision of the Resource Management Agency – Planning Director's approval of the Design Approval to correct a code violation (11CE00134) allowing for the placement of a twenty foot high wireless communication antenna within a water tank easement to serve a California-American Water Company water tank; and
 - c. Remand the application to the Zoning Administrator to render a decision on the proposed alternative design of a wireless communication antenna; and
 - d. Render this action as the final decision on the Murray appeal (13-137).
- (Appeal of a Design Approval - PLN120817 California-American Water Company, 10 Oak Meadow Lane, Carmel Valley, Carmel Valley Master Plan)

PASSED AND ADOPTED on this 9th day of April 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter
 NOES: None
 ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on April 9, 2013.

Dated: May 8, 2013
File Number: 13-0319

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 13-136

In the matter of the application of:)
California-American Water Company)
(PLN120817))
Grant the request to waive the appeal fee and)
authorize the RMA-Planning Director to)
refund the appeal fee.)
(PLN120817, California-American Water)
Company).....)

The request by Constance Murray for a Waiver of Appeal Fee came on for public hearing before the Monterey County Board of Supervisors on March 19, 2013 and April 9, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

FINDINGS

- 1. FINDING: PROCESS – On December 7, 2012, California American Water Company (“Cal-Am”) applied for an after-the-fact Design Approval to correct a code violation and to allow for the placement of a twenty foot high water tank communication antenna within a water tank easement to serve Cal-Am.
a) On January 7, 2013 the RMA- Director of Planning approved the Design Approval. (PLN120817)
b) A Notice of Approved Design Approval was mailed to all property owners within 300’ of the subject property on January 9, 2013.
c) On January 22, 2013, Constance Murray (“Appellant”) filed a timely appeal from the RMA-Planning Director’s approval of a Design Approval. (PLN120817) The Appellant requested that the appeal fees be waived.
d) The hearing on the appeal and the fee waiver request was noticed for March 19, 2013. At the March 19, 2013 hearing, the appellant requested a continuance, and the applicant agreed to a continuance to April 9, 2013. The Board of Supervisors continued the hearing to April 9, 2013 and the Board of Supervisors conducted a public hearing on the appeal and fee waiver on April 9, 2013. Notices of the public hearing on the appeal were published in the Monterey County Herald and mailed to neighbors within 300 feet on March 8, 2013, pursuant to Monterey County Code Chapter 21.78. Public hearing notices for the appeal were posted in three different public places on or near the subject property by Planning staff.

EVIDENCE:

The Notice of Appeal form, 300 foot list, Affidavit of Posting, and related materials found in the RMA-Planning Department project file PLN120817.

- 2. FINDING: FEE WAIVER – The Board grants appellant’s request to waive the appeal fee based on the following:

- a) Constance Murray filed an appeal on January 22, 2013 of the RMA-Director of Planning's approval of the Design Approval. (PLN120817) Ms. Murray requested waiver of the appeal fee on the basis that noticing requirements were not followed, the appellant never received notice of the filed application from the County or Cal-Am, Cal-Am signed the application as "Property Owner/Agent", and Ms. Murray had no knowledge of the application until after it was approved. Although all noticing required by the Monterey County Title 21 Zoning Ordinance was followed, the sequence results in the first public hearing on the application occurring on the appeal. On January 22, 2013 the appellant paid the appeal fee in the amount of \$5146.81.
 - b) Under Section 21.44.040. D of Title 21, the Director of Planning may approve a Design Approval without a hearing. Notice of the approved Design Approval was given, and the appellant had the opportunity to appeal per section 21.44.070 of Title 21. Because the Design Approval was granted by the Director of Planning without a hearing, this appeal hearing is the first public hearing on the application. It is appropriate to grant the waiver of appeal fee in this case where the Board's appeal hearing is the first public hearing on the Design Approval.
- EVIDENCE:** Notice of Appeal form, Title 21 of the Monterey County Code.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Grant the request by Constance Murray to waive the appeal fee and authorize the RMA-Planning Director to refund the appeal fee.

PASSED AND ADOPTED upon motion of Supervisor Potter seconded by Supervisor Salinas and carried this 9th day of April 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on April 9, 2013.

Dated: May 2, 2013
File Number: 13-0319

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By  _____
Deputy

Before the Board of Supervisors in and for the
County of Monterey, State of California

Resolution No. 13-137

- Resolution of the Monterey County Board of Supervisors to:)
 1. Set aside the decision of the Resource Management Agency – Planning Director’s approval of the Design Approval to correct a code violation (11CE00134) allowing for the placement of a twenty foot high wireless communication antenna within a water tank easement to serve a California-American Water Company water tank; and)
 2. Remand the application to the Zoning Administrator to render a decision on the proposed alternative design of a wireless communication antenna; and)
 3. Render this action as the final decision on the Murray appeal.)

The appeal by Constance Murray from the decision of the Resource Management Agency – Planning Director’s approval of the Design Approval (PLN120817) came on for public hearing before the Monterey County Board of Supervisors on April 9, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

WHEREAS, on December 7, 2012, California American water Company (“Cal-Am”) applied for an after-the-fact Design Approval to correct a code violation and to allow for the placement of a twenty foot high water tank communication antenna within a water tank easement to serve a Cal-Am water tank;

WHEREAS, on January 7, 2013 the RMA-Planning Director approved the Design Approval;

WHEREAS, on January 9, 2013 a Notice of Approved Design Approval was mailed to all property owners within 300 feet of the subject property;

WHEREAS, on January 22, 2013, Constance Murray (“Appellant”) filed a timely appeal from the RMA-Planning Director’s approval of the Design Approval;

WHEREAS, the notices of the March 19, 2013 public hearing on the appeal were published in the Monterey County Herald and mailed to neighbors within 300 feet on March 8, 2013;

WHEREAS, at the March 19, 2013 hearing, the appellant requested a continuance, and the applicant agreed to a continuance to April 9, 2013. The Board of Supervisors continued the hearing to April 9, 2013;

WHEREAS, on April 9, 2013, the appeal was set to be heard by the Board of Supervisors. After public testimony and concurrence by the applicant and the appellant’s representative, the

applicant stated that an alternative design would be submitted. Staff recommended that the alternative design be remanded to the Zoning Administrator for a decision.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Set aside the decision of the Resource Management Agency – Planning Director’s approval of the Design Approval to correct a code violation (11CE00134) allowing for the placement of a twenty foot high wireless communication antenna within a water tank easement to serve a California-American Water Company water tank; and
- b. Remand the application to the Zoning Administrator to render a decision on the proposed alternative design of a wireless communication antenna; and
- c. Render this action as the final decision on the Murray appeal.

PASSED AND ADOPTED upon motion of Supervisor Salinas seconded by Supervisor Parker and carried this 9th day of April 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on April 9, 2013.

Dated: May 2, 2013
File Number: 13-0319

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By  _____
Deputy