



## Monterey County Board of Supervisors

### Board Order

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1st Floor  
Salinas, CA 93901  
831.755.5066  
[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

A motion was made by Supervisor Wendy Root Askew, seconded by Supervisor Mary L. Adams with Supervisor John M. Phillips and Supervisor Chris Lopez, voting no, to

#### **Adopt Resolution No.: 21-070**

- a. Find the project, which consists of the replacement of an existing structure, categorically exempt per CEQA Guidelines section 15302;
- b. Consider additional information requested by the Board on the November 5, 2020;
- c. Grant the appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve an after the fact Design Approval, as modified by the Zoning Administrator, for minor additions to an existing single-family dwelling and a fence ranging in height from four to six feet on the property lines (Llano Street and Second Street); at 99 Second Street, Spreckels;
- d. Accept the appellants proposal to modify the fence by removing alternating boards resulting in 1/2-inch voids that would give an "open-patterned" appearance along Second and Llano Streets. The appellants would also reduce the rear fencing four feet along the property lines back to the edge of the two houses; and
- e. Waive the appeal fee.

#### **PROJECT INFORMATION**

Property Owners: Smith, Michael A and Rader, Rosana

APN: 177-061-003-000

Parcel Size: 0.173 acre (7,536 sq. ft)

Zoning: HDR/5.1-HR-DHigh Density Residential/5.1 acres per unit-Historic Resource-Design Control District

PASSED AND ADOPTED on this 16<sup>th</sup> day of March 2021, by roll call vote:

AYES: Supervisors Alejo, Askew and Adams

NOES: Supervisors Phillips and Lopez

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting March 16, 2021.

Dated: March 23, 2021  
Revised: March 31, 2021  
File ID: RES 21-053  
Agenda Item No.: 11

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Julian Lorenzana, Deputy

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

In the matter of the application of:  
**SMITH & RADER (PLN190255)**

**RESOLUTION NO. 21-070**

Resolution by the Monterey County Board of Supervisors:

- 1) Granting the appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve a Design Approval for minor additions to an existing single family dwelling and a solid wood fence ranging in height from four to six feet on the property lines (Llano Street and Second Street);
- 2) Finding that the approval is categorically exempt per section 15302 of the CEQA Guidelines;
- 3) Approving modifications to the fence by removing alternating boards resulting in 1/2-inch voids that would give an “open-patterned” appearance along Second and Llano Streets and reducing the rear fencing 4 feet along the property lines back to the edge of the two houses; and
- 4) Waiving the appeal fee.

[PLN190255, SMITH & RADER, 99 Second Street, Spreckels, Greater Salinas Area Plan (APN: 177-061-003-000)]

**The SMITH & RADER application (PLN190255) came on for public hearing before the Monterey County Board of Supervisors on November 17, December 1, 2020, January 12, 2021, February 2, 2021, March 2, 2021 and March 16, 2021. Having considered the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **PROCESS** – The County has processed the subject Design Approval application (RMA-Planning File No. PLN190255/Smith. Rader) (the project) in compliance with all applicable procedural requirements.  
**EVIDENCE:** a) In November 2018, owners Michael Smith and Rosa Rader applied for a Design Approval (DA) for a fence and remodel with minor exterior changes to their residence (DA180340). Staff approved this application over the counter as submitted, including a solid wood fence up to six feet

between properties and along Llano Street and reducing the height to three feet on Second Street (front).

- b) When construction began, a neighbor (Mr. Takashima) called to state his opposition. Staff investigated and found that, while fences are normally allowed to be up to six feet high and can be constructed at the property line, the situation differed here because the property is in a Historic District and has an HR overlay. Additionally, Mr. Takashima expressed concern that the fence's height blocked views for access (safety). The County notified the owners that the over-the-counter-DA was approved in error, and rescinded it on May 31, 2019, pending revised plans for a new fence height and design.
- c) On July 2, 2019, applicants submitted revised plans. Applicants lowered the fence along Llano and Second Street, but did not agree to change to a more open fence design (vs solid fence) or lower the fence along the shared property line to conform with the four foot height requirement in the 20-foot setback area. Applicants cited other solid fences found throughout the community and provided photos of these designs showing a mixture of different heights and designs. After further review of the redesigned fence, staff determined that, as built, the fence did not fully conform to the Spreckels Design Guidelines. Regardless, staff ultimately issued a Design Approval for the revised fence. Neighbors within 100 feet of the property received a pending approval notice in the mail, giving them an opportunity to appeal the Design Approval to the Zoning Administrator, per Monterey County Code (MCC) section 21.44.050.
- d) On September 30, 2019, Mr. Takashima timely appealed, contending that the fence, as constructed along the shared property line, directly impacted his access to the street and was inconsistent with the Spreckels Design Guidelines. Prior to the Zoning Administrator hearing, staff sent the project to the Spreckels Neighborhood Design Review (SNDR) Committee and the Historic Resources Review Board (HRRB).
- e) Mr. Takashima claimed that the fence posed line-of-sight hazards from an alleyway on the other side of his property. He insisted that the six-foot side fence blocked cars' view of the street. RMA-Code Compliance was asked to visit the site to determine if Mr. Takashima's claims were accurate. On September 10, 2019, following such a site visit, staff determined that the fence did not create new safety hazard impacts for cars or pedestrians exiting the alleyway.
- f) On August 21, 2020, the revised fence was referred to the SNDR. The SNDR stated they did not receive the application package. However, the fence had already been installed, so it was able to visit the site to review the conditions. The applicants claimed they did not receive notification of the SNDR meeting and were not present. Staff confirmed that the plans were timely sent to the SNDR and that no return-mail was received. Staff did not have a P.O. Box number for the applicants; however, a notice was sent to their agent. Members of the SNDR stated that the existing fence was not acceptable and should be removed immediately because it was not an open pattern design and was too tall. All members agreed to continue the matter to allow time for owners to both produce a revised, consistent fence plan and to attend the meeting. Staff explained that applicants were not going to make further changes. SNDR responded that

the fence did not meet the Spreckels Design guidelines and directed that the project be sent to HRRB.

- g) On December 12, 2019, the HRRB offered the following comments:
- Design Guidelines were created in 1999. They were intended to maintain the historicity of the town of Spreckels. All new additions apply to these guidelines.
  - The house has been deemed a non-contributing structure; confirmed by historian.
  - Parcel has two front setbacks. The height of the fence on the two fronts are consistent; however, the solid fencing on both fronts are not consistent.

The HRRB voted 3 to 2 that the project be revised so the proposed fence facing Second Street and Llano Street be a maximum of four feet tall and have an open pattern design consistent with Spreckels Design Guidelines Policy S-2.1. The side-yard fence within the front-yard setback facing Llano Avenue would remain a solid fence but be tapered down to four feet high from the sidewalk back to the setback line (20 feet) or the nearest structure (whichever is less) for the fence design to not detract from adjacent uses or the historic character of the District and to maintain the visual continuity of the existing streetscape. Dissenters on the HRRB moved for approval conditional on the front fence (Second Street) being modified to an open work pattern and reduction of the side fence between the properties to four feet back to the edge of the houses. However, after further discussions about the property being on a corner lot pursuant to MCC section 21.62.040, the HRRB concluded that Llano Street was also a front setback and should have the open pattern design as well.

- h) The Monterey County Zoning Administrator held a duly noticed public hearing on the Smith/Rader application on July 30, 2020. Notices for the Zoning Administrator public hearing were published in the Monterey County Weekly on July 20, 2020; posted at and near the project site on July 20, 2020; and mailed or emailed to vicinity property owners and interested parties on or before July 17, 2020.
- i) On July 30, 2020, after review of the application and submitted documents and a duly-noticed public hearing at which all persons had the opportunity to be heard, the Zoning Administrator found the project categorically exempt per CEQA Guidelines section 15303(e) and approved Design Approval (PLN190255), conditioned on changed existing fencing, modified from DA180340, as follows:
- a. Front property line along Second Street. Max 4-foot tall open wood fence to be consistent with the Spreckels Design Guidelines,
  - b. Front property line along Llano Street. Max 4-foot tall open wood fence to be consistent with the Spreckels Design Guidelines; and
  - c. Side yard property line starting 4 feet tall from the sidewalk back to the setback line (20 feet) or the nearest structure whichever is less, then max 6-foot tall solid wood fence.
- The approval was subject to three conditions of approval.  
(Monterey County Zoning Administrator Resolution No. 20-032)
- j) Michael Smith and Rosana Rader (Applicants/Appellants), pursuant to MCC section 21.80.050.A, appealed from the Zoning Administrator's

July 30, 2020 decision to condition approval on the fence being redesigned to conform to the Spreckels Design Guidelines.

- k) Pursuant to MCC sections 21.80.050.C and E, an appeal shall be filed with the Clerk of the Board of Supervisors within 10 days after written notice of the decision of the Appropriate Authority (i.e., Zoning Administrator Resolution No. 20-032) has been mailed to the Applicant, and no appeal shall be accepted until the notice of decision has been given (i.e., mailed). The County mailed the written notice of the decision on August 7, 2020, and said appeal was filed with the Clerk of the Board of Supervisors on August 20, 2020, within the 10-day timeframe prescribed by MCC section 21.80.050.C. Accordingly, the appeal is timely. Additionally, the appeal sets aside the Zoning Administrator decision, and the appeal hearing is de novo (MCC sections 21.80.030 and 21.80.090.) A complete copy of the appeal is on file with the Clerk of the Board, and is attached to the November 5, 2020 staff report to the Board of Supervisors as Attachment F.
- l) The appeal was timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on October 20, 2020. Notice of the hearing was published on October 9, 2020 in the Monterey County Weekly; on October 7, 2020, staff mailed notices to all property owners within 300 feet of the project site, and to persons who requested notice. On October 9, 2020, staff posted at least three notices at and near the project site. Prior to the October 20, 2020 hearing, Appellants requested in writing that the matter be continued to November 5, 2020. At the October 20, 2020 hearing, the item was continued to November 5, 2020 pursuant to another written request by Appellants.
- m) On November 5, 2020, the Board of Supervisors held a public hearing on this item. The Board continued this matter to November 17, 2020, directing staff to evaluate options for reimbursement of certain costs associated with replacing the fence in accordance with the Zoning Administrator's conditions. Due to delays in obtaining financial information and other circumstances beyond staff's control, the matter was again continued to December 1, 2020, January 12, 2021, February 2, 2021, March 2, 2021 and March 16, 2021.
- n) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development can be found in Project File No. PLN190255; Clerk of the Board of Supervisors' file(s) related to the appeal.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the proposed development and/or use.

- EVIDENCE:**
- a) The proposed project is a Design Approval to allow modifying the replacement fence by removing alternating boards, resulting in 1/2- inch voids that would give an “open-patterned” appearance along Second and Llanos Streets; and reducing the rear fencing four feet along the property lines back to the edge of the two houses, so that the fence design does not detract from either adjacent uses or the historic character of the District and to maintain the visual continuity of the existing streetscape.
  - b) Applicants submitted a Design Approval application on July 2, 2019.

- c) The property is located at 99 Second Street, Spreckels (Assessor's Parcel Number 177-061-003-000), Greater Salinas Area Plan. The parcel is zoned "HDR/5.1-HR-D" High Density Residential, 5.1 acres per unit, Historic Resources, Design Control, which allows for residential development with the issuance of a Design Approval. Therefore, the project is an allowed land use for this site.
- d) Applicants own a single-family home on a corner lot in Spreckels. In November 2018, they submitted a Design Approval (DA) application for a fence and remodel with minor exterior changes to the residence (DA180340). Staff approved this application over the counter as submitted, including a solid wood fence up to six feet between properties and along Llano Street and a height reduction to three feet on Second Street (front).
- e) The town of Spreckels has guidelines for fence designs due to its historic nature (the Guidelines). The Guidelines are applicable to even the newest homes, which were constructed in 2008. Guidelines Policy S-2.1 provides, "New fences in front yards should not exceed four feet in height and should generally be constructed of wood slats in an open work pattern." Staff determined that the structure is not historic and does not contribute to the HR's district's historic nature. Regardless, the structure is in an area zoned Historic Resources (HR) and Design Control (D) Zoning Districts and therefore, is subject to the Guidelines. The Guidelines provide design standards to which the fencing is subject.
- f) The property is zoned HDR/5.1-HR-D, High Density Residential, 5.1 units per acre, Historic Resources, Design Control District. Setbacks for structures in this zoning district include: Front-20 feet, Side-5 feet, and Rear-10 feet, with a 35-foot height limit. Although the house faces Second Street, it is located on a corner lot at Llano and Second Street. According to MCC section 21.62.040.M, "In case of a lot abutting upon two or more streets, the main structure and accessory structures shall not be erected so as to encroach upon the front setback required on any of the streets." After further review, staff determined that there are two front setbacks and the 4-foot height limit applies to both Llano Street and Second Street.
- g) There are a variety of fences within the Spreckels community. Photos of neighboring fences show a mixture of heights and designs throughout the town. Three-foot high white fences with open slats surround newer housing development as part of the design to tie in with the historic district. However, there are also several six-foot high solid fences around town (including some masonry walls). Some are very old fences, however, there are newer fences that have recently been constructed but staff could not find permits for those. Staff finds that fencing in front yards is generally at three to four feet high along property lines extending back to the point the fence aligns with the houses, then goes up to six feet.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190255.

3. **FINDING:** **CONSISTENCY** – The Project as approved, is consistent with applicable plans and policies, which designate this area as appropriate for development.
- EVIDENCE:**
- a) During pendency of this application, staff reviewed this project for consistency with the text, policies, and regulations in:
    - the 2010 Monterey County General Plan;
    - Greater Salinas Area Plan;
    - Monterey County Zoning Ordinance (Title 21); and
    - The Spreckels Design Guidelines
 Staff determined there were conflicts between the project and these texts, policies, and regulations.
  - b) Staff referred the project to the Spreckels Neighborhood Design Review (SNDR) Committee for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application warranted referral to the LUAC because the project is a Design Approval subject to review by the Zoning Administrator.
  - c) The DA application for the design of the revised fence was referred to the Spreckels Neighborhood Design Review Committee (SNDR) on August 21, 2019. The SNDR visited the site to review conditions. Applicants claimed they did not receive notification of the SNDR meeting and were not present. Members of the SNDR stated that the existing fence was not acceptable and should be immediately removed because it is not an open pattern and is too tall. All members agreed to a continuance for applicants to attend the meeting and provide a revised consistent fence plan. Staff advised that the revised plans showed the fencing that was already installed and that they believed applicants were not going to make further changes. SNDR concluded the fence did not meet the Spreckels Design guidelines and referred the project to the Historic Resources Review Board (HRRB).
  - d) A neighbor was concerned about a possible line-of-sight hazard from an alleyway on the other side of his property. He claimed cars could not see the street because of the six-foot side fence. On September 10, 2019, RMA-Code Compliance visited the site and determined that the fence did not create safety hazard impacts for cars or pedestrians exiting the alleyway or at least no more than when cars are parked in the adjacent neighbor's driveway.
  - e) Staff ultimately approved the Design Approval administratively for the revised design (PLN190255), despite the fence not being lowered along the shared property line or being open construction. Staff mailed a pending approval notice to all neighbors within 100 feet of the property, giving them an opportunity to appeal the Design Approval to the Zoning Administrator. Ultimately, the aggrieved neighbor (Mr. Takashima) timely appealed on September 30, 2019.
  - f) Staff was tentatively set to bring this matter before the Zoning Administrator in March 2020. However, the COVID-19 pandemic caused a substantial time delay.
  - g) In the interim, staff referred the project to the HRRB. On December 12, 2019, the HRRB offered the following comments:

- Design Guidelines were implemented in 1999. They were intended to maintain the historicity of the town of Spreckels. The Guidelines apply to all new additions.
- Staff deemed the house a non-contributing structure; a historian confirmed this conclusion.
- The parcel has two front setbacks. The height of the fence on the two fronts are consistent; however, the solid fencing on both fronts are not consistent.

HRRB voted 3 to 2 that the project be revised so the proposed fence facing Second Street and Llano Street be at a maximum of four feet tall and have an open pattern design consistent with Spreckels Design Guidelines Policy S-2.1. The side-yard fence within the front-yard setback facing Llano Avenue would remain a solid fence but be tapered down to four feet high from the sidewalk back to the setback line (20 feet) or the nearest structure (whichever is less) for the fence design to not detract from adjacent uses or the historic character of the District and to maintain the visual continuity of the existing streetscape. Dissenters on the HRRB moved for approval conditional on the front fence (Second Street) being modified to an open work pattern and reduction of the side fence between the properties to four feet back to the edge of the houses. Nevertheless, after further discussions about the property being on a corner lot pursuant to MCC section 21.62.040, the HRRB concluded that Llano Street was also a front setback and hence, should also have the open pattern design.

- h) The project planner conducted a site inspection on May 10, 2019 and September 30, 2019 to verify that the conformed to the plans listed above.
- i) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190255.

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

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15302 categorically exempts projects consisting of replacement or reconstruction of existing structures where the new structure will be located on the same site as the structure replaced. The Board finds that the project meets these criteria.
  - b) CEQA Guidelines section 15300.2 lists exceptions where an exemption may not apply: location, cumulative impact, significant effect, scenic highways, and hazardous waste. The Board finds that, based on the evidence before it, no such exceptions apply.
  - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190255.

5. **FINDING:** **NO VIOLATIONS** – The subject property complies with all rules and regulations pertaining to zoning uses, subdivision, and other applicable provisions of the County’s zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and found no violations on the subject property. Two stop

work orders were issued to the applicants during the construction of the fence, but staff did not open a code enforcement case.

- b) The project planner conducted a site inspection on July 15, 2019, to verify that there were no violations on the property.
- c) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190255.

6. **FINDING:**

**APPEAL AND APPELLANT CONTENTIONS** –Appellants request that the Board of Supervisors grant their appeal and deny the July 30, 2020 Zoning Administrator’s decision of Design Approval PLN190255. The appeal alleges: there was a lack of fair or impartial hearing, the findings or decision or conditions are not supported by the evidence, and the decision was contrary to law. The contentions are listed below with responses. The Board of Supervisors approves the appeal based on the following findings regarding the appellant’s contentions and the findings and evidence set forth above.

**Contention 1** – *Appellants note that the County has already approved their existing fence twice. Appellants contend that, based on precedent set by existing fences in Spreckels, they should not have to change their fence. The appellants challenge Condition #3 (SPPD003) Revised Fence Requirement.*

**Response:** It is unfortunate that staff erroneously approved a six-foot-high fence on two sides of the property. Applicants worked with staff on a revised fence design (second approval) and agreed to reduce the two street facing fences to 3 and 4 feet high, respectively.

The Zoning Administrator’s decision to revise the fence in Condition #3 requires the following: Front property line along Second Street. Max four-foot tall open wood fence to be consistent with the Spreckels Design Guidelines; Front property line along Llano Street. Max four-foot tall open wood fence to be consistent with the Spreckels Design Guidelines; and Side yard property line starting four feet tall from the sidewalk back to the setback line (20 feet) or the nearest structure whichever is less, then max six-foot tall solid wood fence.

The applicants/appellants are proposing modifications to the existing fence by removing alternating boards resulting in ½- inch voids that would give an “open-patterned” appearance along Second and Llano Streets and reducing the rear fencing four feet along the property lines back to the edge of the two houses.

Design Guidelines Policy S-2.1 provides that front-yard fencing should generally be constructed of wood slats in an open work pattern. The policy does not authorize a white picket fence. Other fences in the vicinity have an open work pattern as appellants propose. Rather than have the existing fence removed, the Board agrees to appellants’ proposal and has determined this proposal is consistent with the Spreckels Design Guidelines.

**Contention 2** – *Appellants contend that based on the non-historic designation of their house, they should be allowed to keep their fence as is.*

**Response:** It was determined that structure is not historic and does not contribute to the historic nature of the HR District. Nevertheless, the property

is zoned Historic Resources (HR) and Design Control (D) Zoning Districts and therefore, due to its historic nature, is subject to the Spreckels Design Guidelines. Therefore, the modified fencing is consistent with the neighborhood character and the Guidelines' fencing design standards provided under the above-mentioned guidelines.

7. **FINDING:** **FEE WAIVER REQUEST** – The Board of Supervisors grants a Fee Waiver of the appeal fee totaling \$3,540. Prior erroneous approval caused a hardship.

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Board of Supervisors does hereby:

- 1) Grant the appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve a Design Approval for minor additions to an existing single family dwelling and a solid wood fence ranging in height from four to six feet on the property lines (Llano Street and Second Street);
- 2) Find that the approval is categorically exempt per section 15302 of the CEQA Guidelines;
- 3) Approve modifications to the fence by removing alternating boards resulting in 1/2-inch voids that would give an “open-patterned” appearance along Second and Llano Streets’ and reducing the rear fencing four feet along the property lines back to the edge of the two houses; and
- 4) Waive the appeal fee.

The fence shall be built in general conformance to the attached sketch and subject to the attached conditions attached hereto and incorporated herein by reference.

PASSED AND ADOPTED on this 16<sup>th</sup> day of March 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams

NOES: None

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting February 23, 2021.

Dated: March 23, 2021

Revised: March 31, 2021

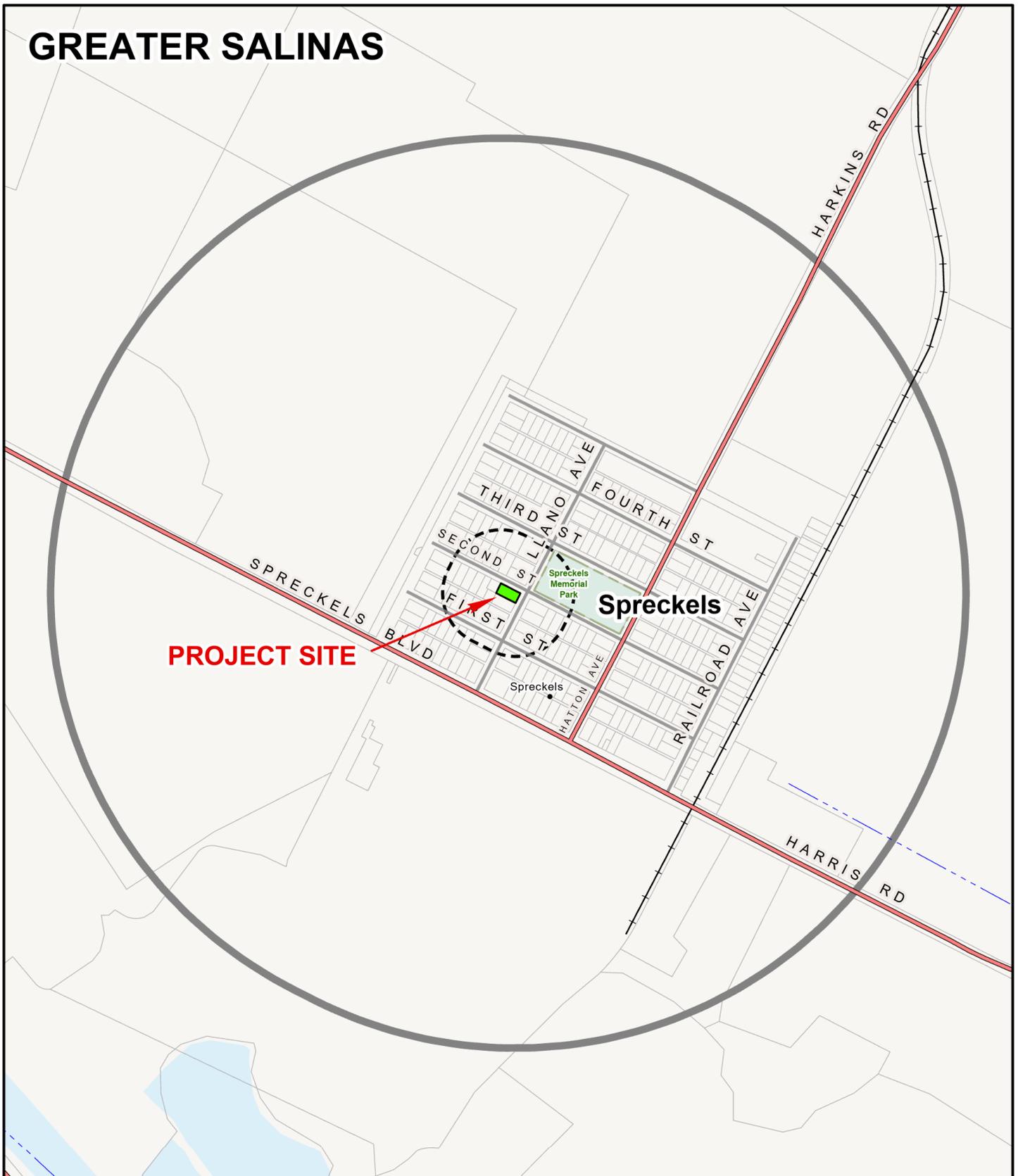
File ID: RES 21-053

Agenda Item No.: 11

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Julian Lorenzana, Deputy

# GREATER SALINAS



**PROJECT SITE**

**Spreckels**

**APPLICANT:**

**APN:** 177-061-003-000

**FILE #**



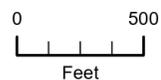
Project Site



2500' Buffer



300' Buffer



# Monterey County RMA Planning

## Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN190255

### 1. DESIGN APPROVAL - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. 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 RMA - Planning. 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. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

## 2. CC01 INDEMNIFICATION AGREEMENT

**Responsible Department:** County Counsel-Risk Management

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

## 3. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Design Approval (Resolution Number 21-070) was approved by the Board of Supervisors for Assessor's Parcel Number 177-061-003-000 on March 16, 2021. The permit was granted subject to 4 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

#### 4. SPPD001- PARTIAL REIMBURSEMENT OF REVISED FENCE

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The Applicants are modifying the existing fence by removing alternating boards resulting in 1/2 inch voids that would give an "open-patterned" appearance along Second and Llano Streets. The appellants would also reduce the rear fencing 4 feet along the property lines back to the edge of the two houses. The County will help with the costs of replacements, provided the appellants submit receipts in the form of cancelled checks of actual costs incurred by the appellants.

**Compliance or Monitoring Action to be Performed:** Appellants shall submit receipts in the form cancelled checks of actual costs of the revised fence. The County will consider partial reimbursement.