### Before the Zoning Administrator in and for the County of Monterey, State of California

### In the matter of the application of: **SHANNON (PLN160408) RESOLUTION NO. 17-009** Resolution by the Monterey County Hearing Body: 1) Finding the project categorically exempt from CEQA per 15301(e)(1); and

 Approving a request for a Variance and Design Approval to clear a Code Enforcement violation (CE060172) to allow for an afterthe- fact permit for a 144 square foot bathroom addition and a 400 square foot carport. The zoning is Low Density Residential /One dwelling per unit with a Design review overlay (LDR/1-D.

PLN160408, Shannon, 9 Paseo Cuarto, Salinas, CA. Toro Area Plan, APN: 161-083-003-000.

The request for an after- the- fact Variance and Design Approval for retention of a 144 square foot bathroom addition that does not meet the required side yard setback, and a 400 square foot carport addition that does not meet the required front yard setback. The two improvements are part of a Monterey County code compliance case CE060172; Shannon's application (PLN 160408) came on for public hearing before the Monterey County Zoning Administrator on February 9, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

### FINDINGS

1.	FINDING:		<b>DESCRIPTION</b> – The proposed project is a request for an after- the- fact Variance and Design Approval for retention of a 144 square foot bathroom addition that does not meet the required side yard setback, and a 400 square foot carport addition that does not meet the required front yard setback. The two improvements are part of a Monterey County code compliance case: CE060172.		
	EVIDENCE:		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 PLN160408.		
2.	FINDING:		<b>CONSISTENCY</b> – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.		
	EVIDENCE:	a)	<ul> <li>During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:</li> <li>the 2010 Monterey County General Plan;</li> <li>Toro Area Plan;</li> <li>Monterey County Zoning Ordinance (Title 21);</li> </ul>		

There is a conflict between the required and allowed setbacks. No

communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- The property is located at 9 Paseo Cuarto, Salinas, CA, 93908, b) Assessor's Parcel Number APN: 161-083-003-000, Toro Area Plan. The parcel is zoned LDR/1-D, Low Density Residential/1 acre/dwelling unit, with Design review overlay, which allows low density residential uses. Therefore, the project is an allowed land use for this site. The additions do not meet the setback requirements, as discussed below in the Variance Finding. The project does meet all of the other applicable zoning regulations, including density, site coverage, and height.
- The LDR/1-D zoning includes a Design review overlay per Monterey c) County Code Section 21.44. of the Zoning Ordinance. The applicant has submitted plans, elevations, and color photos of the addition, that are consistent with 21.44.030. The colors, materials and design of the carport and the bathroom match the existing structure. This project was reviewed by Toro Land Use Advisory Committee, and they unanimously recommended approval of the project as proposed.
- The project planner conducted a site inspection on September 12, 2016, d) to verify that the project on the subject parcel conforms to the plans listed above.
- The carport and bathroom additions to the existing house were e) constructed in the 1980's. The owner believed that the additions were constructed with proper permits, but was unable to find the records. There are no other issues related to this application, such as tree removals, development on slopes, ESHA impacts, view-shed impacts, archaeological resources, parking, height, or guest-house. The issue is that the carport and bathroom were added without proper permits, and they do not conform to the setback requirements.
- The project was referred to the Toro Land Use Advisory Committee f) (LUAC) for review on September 12, 2016. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did warrant referral to the LUAC because the LDR/1-D zoning includes a Design overlay, which requires applications to be reviewed by LUAC.
- The application, project plans, and related support materials submitted **g**) by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160408.

#### FINDING: **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- **EVIDENCE:** The project has been reviewed for site suitability by the following a) departments and agencies: RMA- Planning, Monterey County Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - This variance request is for two additions to an existing structure b) constructed in the 1980s. Staff did not identify any potential biological resources, archaeological resources, or Soil/Slope Stability. This is a

### 3.

### SHANNON (PLN160408)

previously developed site. There are no code violations in the County record except for the current one: CE06172.

- c) Staff conducted a site inspection on September 12, 2016, to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN160408.

## 4. **FINDING: NO VIOLATIONS:** The subject property is not currently in compliance with all rules and regulations pertaining to zoning set

- compliance with all rules and regulations pertaining to zoning setbacks of the County's zoning ordinance. Violations do exist on the property. The approval of this permit willt legalize the additions more and bring the property more into compliance, because it is a request for an afterthe-fact variance to the setback standards for the carport and bathroom additions.
- **EVIDENCE:** a) Staff reviewed Monterey County RMA Planning and Building Services Department records and is aware of the setback violations existing on subject property.
  - b) Staff conducted a site inspection on September 12, 2016, and researched County records to assess if any violation exists on the subject property.
  - c) The proposed Variance and Design Approval permits existing violations regarding setback violations for the carport and bathroom additions, per Code Enforcement CE060172. The carport addition has a front setback of 20 feet, and the required front setback is 30.0 feet. The bathroom addition has a side yard setback of 4.86 feet, and the required setback is 9.0 feet. The applicant discusses below, in the variance findings, that due to the small size of the lot, that they request a variance to retain the additions.
  - d) Zoning violation abatement costs, if any, have been paid. A condition is included to assure that all zoning abatement costs, if any, have been paid.
- 5. **FINDING: HEALTH AND SAFETY -** The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
  - **EVIDENCE:** a) The project was reviewed by the RMA Planning, Monterey County Fire Protection District, RMA-Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
    - b) Necessary public and private facilities are available. The dwelling is provided with a mutual water supply and a private septic system. There are no critical issues with the carport and bathroom additions.
    - c) The carport and bathroom additions in this variance request have existed since the 19080s. Prior to the code violation CE06172 in 2016, there is no record of complaints or code violations for the subject property.
    - d) Staff conducted a site inspection on September 12, 2016, to verify that

the site is suitable for this use.

- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN160408.
- 6. FINDING: VARIANCE (SPECIAL CIRCUMSTANCES) The variance shall be granted because of special circumstances applicable to the subject property, including the size, shape, topography, location or surroundings. The strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zoning classification.
  - a) The property has a zoning designation of LDR/1-D, Low-Density Residential with a Design overlay.
  - b) A single family home is allowed in the LDR/1-D zone (Section 21.14.030 MCC). Development standards for the LDR/1-D zone are identified in Section 21.14.060 MCC. The lot size is 0.23 acres, or 10,017 square feet. This is a rectangular shaped lot in the San Benancio Village Subdivision. It is one of the smaller lots in the subdivision, as shown on the vicinity map. Required setbacks for a residence in the LDR/1-D zone are: 30 feet (front), 20 feet (rear), and 10% of the average building lot width, or 9.05 feet (sides).

The property is oriented with a front setback from the carport addition of 20.0 feet from the front property line, on the northeast side of Paseo Cuarto. The carport support post setbacks match the setback of the dwelling, such that it does not encroach farther than the dwelling into the front setback. The bathroom addition is 4.86 feet from the side property line, versus the required setback of 9.0 feet, for a difference of 4.1 feet.

c) The applicant requests a variance based on the physical constraints of the site. The bathroom addition on the right side of the residence was located there to avoid the original septic system location in the rear yard. The carport addition was located in front of the original garage to accommodate the garage, and matched the setback of the existing dwelling.

The applicant notes that there are five other parcels that have received planning permits from Monterey County for variances in this subdivision, with the same zoning. Of these five variance permits, four have been approved for the reduction in side and front yard setbacks. (ZA05610, ZA06631, ZA05641, and PLN970183) They were all for additions to existing residences. The applicant notes that they discussed the project with the adjoining neighbors, and no one has voiced concern or opposition to the additions, which were constructed in the 1980's.

- d) The project planner conducted a site inspection on November 12, 2016, to verify the circumstances related to the property.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160408.

- 6. **FINDING: VARIANCE (SPECIAL PRIVILEGES)** The variance shall not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
  - **EVIDENCE:** a) The property has a zoning designation of LDR/1-D (Low Density Residential/1 dwelling per unit, with a Design review overlay.
    - b) Other property owners in the vicinity and under identical zoning classification have been afforded the same privilege sought by the property owner of this application. Within the subject property's same subdivision, San Benancio Village, five parcels received variance permits, and four of these were for setback allowances. Based upon these examples, and the relatively small size of the lots (.23 acres) to accommodate on-site septic, residences, garages, and parking, the proposed additions are not uncommon in this vicinity.
    - c) The project planner conducted a site inspection on September 12,2016, to verify the circumstances related to the property.
    - d) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160408.
- 7. **FINDING: VARIANCE (AUTHORIZED USE)** The 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:** a) The property has a zoning designation of LDR/1-D: Low Density Residential/1 dwelling per unit.
    - b) The LDR/1-D zoning expressly authorizes low density residential uses, such as the existing single-family dwellings, and the proposed variance is for an after-the-fact approval of carport and bathroom additions to a single-family dwelling associated with residential use.
    - c) The project planner conducted a site inspection on September 12, 2016, to verify the circumstances related to the property.
    - d) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160408.

## 8. **FINDING: CEQA (Exempt): -** The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- **EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15301(e)(1), categorically exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.
  - b) The existing structure was 2,078 square feet before the 144 square foot bathroom and 400 square foot carport additions were constructed. The additions of 544 square feet are 26%, which is less than 50% of the existing 2,078 square foot structure. The total area of the residence with additions is less than 2,500 square feet.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on September 12, 2016.
  - d) 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 PLN160408.

# 9. FINDING: APPEALABILITY - The decision on this project may be appealed to the Planning Commissionand not the California Coastal Commission EVIDENCE: a) Section 21.80.040.B. of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Planning Commission.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Monterey County Zoning Administrator does hereby:

- 1. Find the project categorically exempt from CEQA per 15301(e)(1); and
- 2. Approve an for a Variance and Design Approval to clear a Code Enforcement violation (CE060172) to allow for an after-the-fact permit for a 144 square foot bathroom addition and a 400 square foot carport, in general conformance with the attached site plan, floor plan and elevations and subject to the attached conditions, and all being attached hereto and incorporated herein by reference; and

**PASSED AND ADOPTED** this 9th day of February, 2017.

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON FEB 0 9 2017

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

# IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE <u>FEB 2 1 2017</u>.

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 Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 5-14-2014

### Monterey County RMA Planning

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

PLN160408

### 1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation This Variance and Design Approval permit (PLN160408) allows for after the fact **Monitoring Measure:** approval of a 144 square foot bathroom addition with 4.86 foot side yard setback, and a 400 square foot carport addition with a 20 foot front yard setback. The property is located at 9 Paseo Cuarto, Salinas (Assessor's Parcel Number 161-083-003-000), Toro Area Plan. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA Planning)

Compliance or Monitoring Action to be Performed: Compliance or Monitoring Action to be Performed:

2. 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 Variance and Design Approval permit Resolution Number 17-009 was approved by the Zoning Administrator for Assessor's Parcel Number 161-083-003-000 on February 9, 2017. The permit was granted subject to 3 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.

### 3. BUILDING PERMIT APPROVAL REQUIRED

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: A Building Permit must be approved and submitted as a condition of the approval of PLN160408, located at 9 Paseo Cuarto, Salinas. The approval of the Variances and Design Approvals for front yard setback variance of 20 feet for the 400 square foot carport, and the side yard setback of 4.9 feet for the 144 square foot bathroom addition are contingent on receipt of a final building permit. RMA-Associate Planner: Dee Van Donselaar.

Compliance or Submit a final approved Building Permit from RMA-Building Department for the Monitoring after-the-fact bathroom and carport additions at 9 Paseo Cuarto, Salinas.

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