County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #:	ZA 18-075	**Name:**	
Type:	Zoning Administrator	**Status:**	Agenda Ready
File created:	11/27/2018	**In control:**	Monterey County Zoning Administrator
On agenda:	12/6/2018	**Final action:**	
Title:	PLN180108 - SHAMAN Public hearing to consider after-the-fact permits for construction of a detached garage with an accessory dwelling unit and a workout room located above. Project Location: 209 Pine Canyon Road, Salinas, CA 93908 Proposed CEQA action: Categorically Exempt per Section 15303 of the CEQA Guidelines		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Staff Report, 2. Exhibit A - Draft Resolution, 3. Exhibit B - Vicinity Map, 4. Exhibit C - Toro LUAC Minutes, 5. Exhibit D - Project Data Sheet, 6. RESza_18-066_PLN180108_120618		

Date	Ver.	Action By	Action	Result
12/6/2018	1	Monterey County Zoning Administrator		

PLN180108 - SHAMAN
Public hearing to consider after-the-fact permits for construction of a detached garage with an accessory dwelling unit and a workout room located above.
Project Location: 209 Pine Canyon Road, Salinas, CA 93908
Proposed CEQA action: Categorically Exempt per Section 15303 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

a. Find that the garage, workout room and accessory dwelling unit are small structures in a residential zone and therefore qualify as a Class 3 Categorical Exemption pursuant to section 15303 of the California Environmental Quality Act Guidelines and that none of the exceptions under Section 15300.2 apply.
b. Approve an After-the-Fact Use Permit for an Accessory Dwelling that does not comply with height regulations for the Rural Density Residential zoning district.
c. Approve an after-the-fact Design Approval for an approximately 1,080 square foot detached garage and 415 square foot carport, a 1,057 square foot accessory dwelling unit located above a garage, and a 707 square foot exercise room and bathroom.
d. Approve After-the-Fact Design Approval for a 250 linear foot wrought iron fence
e. Approve an after-the-fact Design Approval for a 156 square foot shed

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 6 conditions of approval.

PROJECT INFORMATION:

Agent: Jim Vocelka
Owner: Fadhi Shaman
APN: 416-449-014-000

Parcel Size: 5.25 acres
Zoning: RDR/5.1-D / LI-VS (mineral extraction)
Plan Area: Toro
Flagged and Staked: No
Application Submitted: August 3, 2018
Application Complete: October 29, 2018

SUMMARY:
The subject property, a 5.25 acre parcel located off Pine Canyon Road, contains a single family dwelling with an attached garage and a separate, detached building consisting of a 1,082 square foot garage with a 1,057 square foot living area and a 707 square foot workout room located above the garage. The detached garage, living area, and workout room were constructed without permits prior to current ownership. Code Enforcement case 10CE00437 was originally opened in 2010 and remained under investigation when staff was repeatedly denied access to the site. When the current owner purchased the property in 2014, the Assessor Parcel Number was incorrectly assigned, and the unpermitted status of the structure was not reported as part of the property transfer. In January of 2018 the current property owner applied for permits for solar energy facilities and was made aware of the issue. A Notice of Violation was issued in January 2018. The property owner has since been working with County staff to apply for the necessary entitlements to legalize the structure. Approval of the requested entitlements and subsequent building permits would bring the structure into compliance.

DISCUSSION:
Development, including a 7,202 square foot single-family dwelling and attached garage, the paved driveways, and the detached garage and accessory dwelling unit and workout room, is located on the northeastern portion of the property. The undeveloped portions of the property include vegetated steep slopes. The parcel contains two different zoning designations: Rural Density Residential (RDR/5.1-D) and Light Industrial-Visually Sensitive (Mineral Extraction) (LI-VS). All development, including the subject structure, is located in the RDR portion of the property.

Although non-habitable accessory structures including the subject garage and accessory dwelling units are allowed uses within the Rural Density Residential zoning category, the accessory dwelling unit would not be consistent with County Code regulations for Accessory Dwelling Units (21.64.030) as constructed. The maximum floor area for an accessory dwelling unit is 1,200 square feet. As constructed, the living area totals 1,764 square feet, including an attached 707 square foot exercise room, which is connected to the main living area via a shared landing and staircase that provides access to both spaces. The proposed plans would involve permanently separating the workout room and connected bathroom and storage area from the accessory dwelling unit by replacing the exercise room door at the top of the stairs with a wall. Separate access to the exercise room would be provided via new redwood stairs and door on the east side of the structure. This will eliminate all internal circulation between the exercise room and the accessory dwelling unit, leaving the accessory dwelling unit at 1,057 square feet.

As constructed, the structure meets all setback requirements. The required side and rear setback is 6 feet. The side setbacks are 25 feet and 96 feet and the rear setback is 104 feet. The structure is located behind the main residence, well behind the required 50-foot front setback. The building exceeds the maximum (15 foot) allowed height for an accessory structure. The total height of the existing structure is 23 feet, 5 inches. Monterey County Code section 21.64.030 (Regulations for Accessory Dwelling Units) Section F states that "Any accessory dwelling unit which does not comply with height or setback regulations for the district in which it is proposed shall require a Use Permit. The Zoning Administrator is the appropriate authority to consider said permit. The Use Permit may only be approved if the Appropriate Authority finds that the deviation from the height or setback requirements better achieves the policies of the General Plan and

regulations of this title." In this case, locating the accessory dwelling unit above the garage kept development on the site within the RDR zoning designation and avoided impacts to steep slopes and visual resources. Although an accessory dwelling unit could potentially be constructed in an alternative location on the property, doing so would have required development on steep slopes. Open Space Policy OS-3.5 of the 2010 General Plan prohibits development on slopes in excess of 25 percent unless there is no feasible alternative and development would better achieve County goals and objectives. Locating the Accessory Dwelling Unit above the existing garage avoids development on steep slopes and in visually sensitive areas. The southern half of the property is zoned Light Industrial with a Visually Sensitive zoning overlay, so locating the accessory dwelling unit anywhere in this area would also have potential visual impacts. Policy OS-5.5 states "Landowners and developers shall be encouraged to preserve the integrity of existing terrain and native vegetation in visually sensitive areas such as hillsides, ridges, and watersheds". Thus, although the accessory dwelling unit location above the garage causes the structure to exceed the height limit, it better achieves the policies of the General Plan by avoiding impacts to visual resources and development on steep slopes.

The detached garage, accessory dwelling unit, and exercise room appear from the outside as one cohesive structure that matches the design and color of the main residential dwelling. The building is an orangey-gold brown with dark brown and white trim and a brown roof. The structure design is consistent with the other structures on the property. As noted by the Toro LUAC members in their review of the project, consistency with neighborhood design is hard to determine because the property is mostly off by itself and the accessory structure is not visible from the road; however, the design of the structures on this parcel are generally consistent with the other residential development in the Pine Canyon area.

A black metal fence and gate were installed around the property without permits. The visually permeable steel fence has a scalloped top and is 6 feet, 9 inches at the tallest point. The fence does not meet the 50 foot front and 6 foot side setback requirements for structures in the Rural Density Residential zoning category. Monterey County Land Use Ordinance Title 21 exempts fences under six feet in height from the definition of structure, so typically fences are not subject to the setback requirements. This particular fence varies in height from 6 feet at the top of the posts to 6 feet, 9 inches at the top of the arches. Since the structurally supportive elements of the fence are only 6 feet tall, and the fence is visually permeable, the fence does not have visual or safety impacts and can be considered exempt from setback requirements in this particular case. Since the property zoning includes a Design Control overlay a Design Approval is required for construction of the fence. Issuance of the Design Approval requested with this application would fulfill this requirement.

A 156 square foot shed was constructed without permits behind the garage and Accessory Dwelling Unit structure. It has been painted to match the other buildings on site and exceeds the 6 foot setback requirement between accessory structures. It is 32 feet from the accessory structure.

Had the project been permitted prior to construction, staff would have been able to support the project with the exception of the square footage of the Accessory Dwelling Unit. With the adjustment proposed as part of this project (replacing the door with a wall and adding a separate entrance to the workout room) the project would have been supportable. Staff would have supported the Use Permit for exceeding the height limit due to the avoidance of impacts to slopes and visual resources as explained above. If the requested entitlements are not granted, the alternative remedy would be to demolish and remove the structure. From there, the applicant could choose to apply for permits for structures that meet all code requirements, including height and square footage limits. Such demolition and reconstruction activities could have additional impacts, including construction traffic and waste generation.

<u>CEQA:</u>
Section 15303 Categorically exempts small structures in a residential zone, including a second residential

dwelling and accessory structures. The project is located in a residential zone and consists of small structures, including a garage, an accessory dwelling unit, a shed, and a fence; therefore, the project qualifies for this exemption. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.

OTHER AGENCY INVOLVEMENT:
The following agencies have reviewed the project, have comments, and/or have recommended conditions:
Environmental Health Bureau
RMA-Public Works
RMA-Environmental Services
Water Resources Agency
Monterey Regional Fire Protection District

LUAC
The proposed project was reviewed by the Toro Land Use Advisory Committee (LUAC) on September 10, 2018. The LUAC recommended approval with a vote of 5 to 0 but suggested that a lighting plan be required since the property may be visible from offsite to ensure that lighting fixtures will not impact the night sky. This has been included as a Condition of Approval (Condition No. 4)

Prepared by: Cheryl Ku, Senior Planner, ext. 6049
Reviewed by: Brandon Swanson, RMA Services Manager
Approved by: John M Dugan, FAICP, RMA Deputy Director of Land use and Community Development

The following attachments are on file with the RMA:
Exhibit A - Draft Resolution including:
- Conditions of approval
- Site Plan

Exhibit B - Vicinity Map
Exhibit C - Toro LUAC Minutes
Exhibit D - Project Data Sheet

cc: Front Counter Copy; Zoning Administrator, Brandon Swanson, RMA Services Manager; Fadhi Shaman, Applicant/Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN180108.