



# County of Monterey

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

## Board Report

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**File #:** PC 19-136, **Version:** 1

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### **PLN170659 - MCNICKLE AND ALLAIRE**

Public hearing to consider a Restoration Plan to correct a portion of grading done on slopes over 25 percent, and an After-the-Fact Use Permit to keep the remainder of grading done on slopes over 25 percent. The project also includes the new construction of a two-story single family dwelling with attached garage (Approx. 3,075 sq. ft.), and approximately 120 square foot shed

**Project Location:** 26425 Laureles Grade, Salinas, CA 93924

**Proposed CEQA Action:** Categorically Exempt per section 15303 of the CEQA Guidelines

#### PROJECT INFORMATION:

**Planning File Number:** PLN170659

**Owner:** McNickle and Allaire

**APN:** 416-051-005-000

**Zoning:** RDR/B-8-VS

**Plan Area:** Toro Area Plan

**Flagged and Staked:** Yes

#### RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

- a. Find that construction of a residence with accessory structures is a small new structure in a residential zone that qualifies 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 a Restoration Plan to correct a violation for tree removal and grading that occurred on slopes over 25 percent without a permit (estimated 454cy of fill and 11.8cy of cut)
- d. Approve an after-the-fact Use Permit for grading on slopes over 25 percent (estimated 370cy of cut) to clear a violation for grading without a permit
- e. Approve an Administrative Permit and Design Approval to allow the following development:
  - i. Two-story single family dwelling (approximately 2,595 sq. ft.) with attached Garage (approximately 480 sq. ft.),
  - ii. Shed (approximately 120 sq. ft.);
  - iii. Deck and Patio (approximately 558 sq. ft., second floor);
  - iv. Patio (approximately 660 sq. ft. patio, on grade); and
  - v. Associated construction related grading of approximately 71cy of cut and 71cy of fill, in addition to the unpermitted grading

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 18 conditions of approval.

#### SUMMARY:

The subject property is a 4.22 acre parcel at the intersection of Jenette Rd and Laureles Grade Rd. The parcel borders Laureles Grade Rd to the west and slopes downward toward the east. Approval of the proposed project will correct code enforcement violation 17CE00378 by both restoring a portion of grading work that was done without a permit and entitling the remainder of the work with a Use Permit.

In August of 2017, the property owner applied for permits to allow grading and construction for the development of a single-family dwelling. During a site visit, staff discovered that grading on slopes over 25 percent, which included a building pad formed by cutting into a steep slope, a main dirt driveway, and secondary dirt access roads, had already occurred without a permit. In addition, based on historic imagery, two oak trees had also been removed without permits. Staff issued a Stop Work Order and the property owner has since been working with staff to come into compliance with County Codes. Subsequent investigation and reports demonstrated that the building pad and dirt driveway had been created years ago, prior to current ownership. However, the secondary dirt roads which provide access to different areas of the property and removal of the two oak trees was completed by the current property owner.

The proposed project will restore the secondary dirt roads to return the terrain to its natural slope. As part of the approval, the applicant will be required to plant ten oak trees to replace the two removed in accordance with the recommendation from the Tree Removal Impact Assessment prepared for the site. An after-the-fact Use Permit will allow the main driveway and building pad to remain to support the proposed development on the property which includes a single family dwelling with an attached garage and a small shed.

#### DISCUSSION:

**Site History** - When the current owner purchased the property in 2017, a dirt driveway and building pad already existed, which had been created by the previous owners without a permit. To facilitate access to other portions of the property and to prepare for construction, the property owner completed additional grading to form dirt roads above and below the building site and along the northern property boundary near the road. This process also resulted in the removal of two oak trees. All of the work done by the current owner was also done without a permit. Development at the site currently consists of dirt driveways and a building pad. There are no structures built on site. The proposed project would restore the majority of the unpermitted grading onsite, would legalize the existing building pad and driveway through a Use Permit for grading on slopes over 25 percent, and would allow development of the proposed residence.

**Building Site** - Staff determined that the building pad, created prior to current ownership, is located in an appropriate area for development, and that a home of reasonable size could not have been designed to avoid impact on slopes over 25%. This building site allows the proposed residence to meet all setback requirements and is located downslope enough to eliminate visibility from Laureles Grade road. The existing dirt driveway will be compacted with gravel and will provide direct access to the building. Staff has reviewed the proposed building location with respect to avoiding visual and biological impacts and providing a safe foundation for the proposed residence and recommends approval of the After-the-Fact Use Permit to allow the building pad to remain and to serve as the location for the proposed residence. In accordance with Section 21.84.140, the property owner has paid a double fee for the after-the-fact Use Permit.

**Grading** - Multiple dirt roads were created by the property owner to provide access to various parts of the site. Each of these roads is proposed to be restored back to the original slope of the land and secured with native seed mix and soil stabilization measures. Restoration will involve a total of 466 cubic yards of grading. The building pad which was constructed prior to current ownership is proposed to remain. This area appears to have been cut into the slope using heavy equipment several years ago.

A Biological Impact Assessment was prepared for the property by Thompson Wildland Management (LIB#180437) to assess impacts of grading and tree removal and to recommend site restoration and erosion control measures. The site contains a mix of introduced mature Monterey Pine trees and native Coast Live Oak trees with dense understory scrub-type vegetation. Although the area is identified in Monterey County

Geographic Information Systems as having the potential to support Environmentally Sensitive Habitat Area (ESHA), specifically oak savanna and toro manzanita, site surveys conducted by the biologist found no evidence of special status species or sensitive habitat and no indication that any special status species had been harmed as a result of activities on the site, with the exception of the removal of two Coast Live Oak trees. Standard conditions require a stormwater control and erosion control plan and ongoing monitoring of erosion and sediment control measures to be conducted throughout the construction process.

Geotechnical Investigation by Soil Surveys Group (LIB#180438) confirmed the stability of the building pad and found that it can support the proposed development with implementation of recommendations including re-compaction of loose soil and measures for expansive soil. An addendum (Exhibit E) addressed moderate landslide hazards present at the site and confirmed that landslide potential can be adequately addressed with the drainage and erosion control measures discussed in the report.

The project will require alternate setbacks and clearances from ascending and descending slopes in order to locate the residence on the existing building pad. A report by Soil Surveys Group (Exhibit F) to address the ascending and descending slopes found that a deep foundation system will mitigate potential loss of lateral support for the foundation at the descending slope. RMA-Environmental Services has reviewed and concurs with the submitted reports and has incorporated the recommendations into Conditions of Approval, including grading and erosion control plans, periodic inspections, and geotechnical certification. Soil Surveys group has submitted a letter confirming that preliminary grading plans for site restoration and for the proposed residence comply with geotechnical recommendations.

**Tree Removal** - Based on historic aerial photographs and staff's research, two oak trees below and adjacent to the proposed homesite were removed during prior unpermitted grading operations to clear the main driveway and building pad. Both trees were located close to the proposed building site and were removed to make room for the house and construction activities. These trees appear to have been larger than a 6-inch diameter at breast height (DBH) based on imagery reviewed, but an estimate of the actual size was not possible given the imagery that was available. A Tree Removal Impact Assessment prepared for the property by Thompson Wildland Management (LIB#180436) found that surrounding oak woodland habitat remains intact and has not been significantly impacted. Roots of existing, living small diameter oak trees are visible within the cut area of this slope. The trees are in fair to good condition and appear to have adapted to the grading and sitework that was performed

Per the Restoration Plan, ten (10) 5-gallon oak trees will be planted on the site as replacement for the two removed trees. The replacement will be acquired from a local native plant nursery that has a good selection of specimens that are free from harmful pathogens, insect pests and/or structural disorders. Furthermore, the replacement plantings will be planted during the appropriate time of year (i.e., fall or winter) using proper tree planting techniques and best management practices, and will be planted in suitable locations that will support healthy establishment, maturation and long-term viability. Successful completion of this action will address tree removal concerns and will assist in preserving and sustaining woodland habitat and character. The trees will be monitored for a two-year period to ensure survival. The tree and root protection measures as recommended by the arborist have been added as conditions of approval.

**Development Standards/Design Review** - The proposed two story house is a somewhat modern design with straight architectural lines. The proposed materials are grey plaster on the first story and wood siding on the second story with a stucco chimney and aluminum framed doors and windows. Although slightly modern architecturally, these colors and materials are subordinate to the natural environment and the house will not be visible from off-site.

The project exceeds all development setback requirements, including the required 100-foot setback from Laureles Grade Road. Required setbacks for the Rural Density Residential zoning designation are 30 feet (front), 20 feet (side), and 20 feet (rear). The front setback is 135 feet, the side setbacks are 355 feet and 223 feet, and the rear setback is 99 feet.

The project site is not within the visually sensitive area as designated by the Scenic Highway Corridors and Visual Sensitivity Map (Figure 16 of the Toro Land Use Plan); however, the zoning designation does include a Visually Sensitive (VS) overlay, which is intended to provide district regulations for the review of development in those areas of the County of Monterey in which such development could potentially create adverse visual impacts when viewed from a common public viewing area. Due to the topography of the site and existing vegetation, the house will not be visible from a public road or viewing area. Existing trees border Laureles Grade road and effectively screen the property from view; however, even without these trees the proposed home would not be visible due to its location at a lower elevation than the road.

The proposed house will overlook other existing Rural Density Residential properties along a private residential road. A Lighting Plan has been added as a Condition of Approval to ensure that outdoor lighting will be down-lit, harmonious with the local area, and constructed or located so that only the intended areas are illuminated, and off-site glare is fully controlled.

**Water/Wastewater** - An initial concern over water availability for the project was expressed in the 30-day review letter prepared by the Water Resources Agency due to a potential moratorium on new CalAm connections in the Hidden Hills Area; however, this property has an existing water meter that has been verified both on-site and via letter from CalAm. The project does not represent a new connection, and CalAm has stated that water will continue to be available to serve the proposed residence.

Wastewater management for the proposed residence will be provided via an on-site septic system. Environmental Health has reviewed percolation investigation reports and found the proposed design acceptable.

## **CEQA**

Section 15303 of the California Environmentally Quality Act categorically exempts small structures, including a single-family residence, in a residential zone. The project is located in a residential zone and consists of small structures, including a single-family dwelling and attached garage, and a shed; 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 County Regional Fire Protection District

## **LUAC**

The proposed project was reviewed by the Toro Land Use Advisory Committee (LUAC) on June 25, 2018. The LUAC recommended approval of the project by a vote of 8 to 0 (Exhibit D), but expressed concerns relative to water availability, effective implementation of the recommendations in the restoration plan, and visibility of the project from neighboring properties at night. Staff has addressed these concerns through the Conditions of Approval, which include the recommendations in the restoration plan and a lighting plan. Water availability is addressed above.

Prepared by: Cheryl Ku, Senior Planner, x6049

Reviewed by: Brandon Swanson, RMA Interim Chief of Planning

Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Development  
Services

The following attachments are on file with the RMA:

- Exhibit A - Draft Resolution
- Exhibit B - Biological Impact Assessment
- Exhibit C - Tree Removal Impact Assessment
- Exhibit D - Geotechnical Investigation
- Exhibit E - Letter Soil Surveys Group: Landslide Hazard
- Exhibit F - Letter Soil Surveys Group: Alternate Setback
- Exhibit G - Toro Land Use Advisory Committee Minutes
- Exhibit H - Vicinity Map
- Exhibit I - Project Data Sheet

cc: Front Counter Copy; Craig Spencer, Interim RMA Services Manager; Ryan McNickle and Rachel Allaire, Applicant/Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Michael Weaver; Project File PLN170659