



# County of Monterey

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

## Board Report

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**File #:** ZA 19-143, **Version:** 1

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### **PLN180438 - REY & CLARK**

Public hearing to consider a permit for the construction of a one-story single-family dwelling (3,415 square feet) a one-story detached garage with workshop (1,021 square feet), an inground swimming pool, a 1,000 square foot ground mounted photovoltaic system, and conversion of 1.4 acres of uncultivated land to an olive tree orchard. Grading associated with the proposed development is approximately 1,430 cubic yards of cut and 3,200 cubic yards of fill.

**Project Location:** 11850 Paseo Escondido Road, Carmel Valley

**Proposed CEQA action:** Categorically Exempt per Section 15303 of the CEQA Guidelines.

### **RECOMMENDATION:**

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

- 1) Find that the project is a single-family dwelling which qualifies for a Class 3 Categorical Exemption pursuant to Section 15303(a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2) Approve an Administrative Permit and Design Approval for a construction of a 3,415 square foot one story single-family dwelling with a 1,021 square foot detached garage/storage and workshop, a new inground swimming pool, and a 1,000 square foot ground mounted photovoltaic system with associated grading of approximately 1,430 cubic yards of cut and 3,200 cubic yards of fill.

A draft resolution, including findings and evidence for approval, is attached for consideration (**Exhibit B**).

### **PROJECT INFORMATION:**

**Agent:** Jason Retterer/JRG Attorneys at Law

**Project Owner:** Eric Rey and Harvey Clark

**APNs:** 416-082-022-000

**Zoning:** RC/10-D-S

**Parcel Size:** 10.31 Acres

**Plan Area:** Greater Monterey Peninsula Area Plan

**Flagged and Staked:** Yes

### **SUMMARY:**

On April 15, 2019, an application was submitted for the construction of a 3,415 square foot, one story single-family dwelling with a 1,021 square foot detached garage and workshop on a vacant 10.3 acre property. The proposal includes adding eight 5,000 gallon water storage tanks for fire suppression and irrigation of landscaping and a proposed 1.4 acre olive tree orchard which will surround the proposed dwelling and garage. The project is located approximately 2.4 miles from Monterey-Salinas Highway (Hwy 68) and 0.5 mile from Laureles Grade within the Greater Monterey Peninsula Plan area and is surrounded by residential use with scattered oaks and some low intensity agricultural uses. This application was originally scheduled for approval by the Chief of Planning on July 17, 2019. However, during the 10-day noticing period, Molly Erickson on behalf of the Open Monterey Project requested a public hearing on the matter. This item has been referred to the Zoning Administrator for consideration pursuant to Monterey County Code, Title 21, Section 21.70.060.

The request for a public hearing, attached as **Exhibit F**, outlines several concerns with respect to the proposed development. Those concerns are covered in more detail below but are generally summarized as:

1. Environmental review is required for the project pursuant to the California Environmental Quality Act (CEQA),
2. A violation exists from grading and vegetation removal that occurred at the site without permits;
3. The water supply and water demand for the project are not disclosed;
4. The project description did not conform to County requirements for project descriptions; and
5. A biological report should be required due to vegetation removal.

Staff has reviewed the concerns raised in the letter and has not changed the staff recommendation. The project includes construction of a single family dwelling and accessory structure which qualifies for a categorical exemption pursuant to CEQA, a violation for grading approximately 200 cubic yards and installation of water tanks will be rectified with this permit and through a construction permit; water for the house and workshop bathroom will be supplied by Cal-Am through the Hidden Hills water unit and irrigation water will come from an onsite irrigation well. Both the residential use and the proposed orchard are allowed uses within the Resource Conservation zoning district. No trees are proposed for removal, no slopes in excess of 25 percent will be impacted, and no development will occur within two scenic easements on the site that are shown on a final Parcel Map at Volume 20, Page 11 in the County Records (for the purpose of protecting 30 percent slopes).

#### DISCUSSION:

Eric Rey and Harvey Clark propose to build a 3,415 square foot, one-story single family dwelling, a 1,021 square foot detached garage with workshop, and a 1.4 acre olive tree orchard surrounding the structures on a 10.3 acre vacant lot on Paseo Escondido Road. The property is zoned Resource Conservation, 10 acres per unit, with Design Control and Site Plan Review overlays (RC/10-D-S) in the Greater Monterey Peninsula planning area. Residential uses, accessory structures, and agricultural uses (on lots of 10 acres or more), are all allowed uses within the zoning district (Title 21, Sections 21.36.030. A, E, and L). An Administrative Permit is required for development within the Site Plan Review zoning district, and a Design Approval is required for construction of new structures in the Design Control zoning district. No permit is required for the olive orchard because the orchard will be located on slopes of less than fifteen percent (General Plan Policy OS-3.5).

Staff has reviewed the project and found it consistent with the relevant policies and regulations. The project was scheduled for administrative approval by the Chief of Planning on July 17, 2019 and notice of consideration of the project was provided 10-days in advance of the decision. During the 10 day noticing period, a letter was submitted by Molly Erickson representing the Open Monterey Project, that requested that the project be referred to the Planning Commission setting forth a number of concerns and contentions. That letter is attached to this report as **Exhibit F**. The project concerns raised in the letter are summarized below followed by a response to the contentions from County staff:

1. **Concern: “Many acres of the site have already been graded, grubbed, and cleared of all chaparral and other vegetation. The County should investigate, disclose and consider the applicant’s grading and vegetation removal of the site. It appears to be unpermitted activity. The amount graded is well in excess of 100CY and requires a permit. It is not clear whether the grading done without benefit of permit, and whether the project approval includes after-the-fact permits and if**

**there is a code enforcement file on the grading. The County should explain in detail and provide the grading permit number and CE file number, if any.**

County Response: Although no violation has been recorded on the site, it does appear that vegetation was removed, and an area was graded for the installation of two 5,000 gallon water tanks. Grading for the water tank area consisted of approximately 230 cubic yards of cut. No grading permit was obtained for the grading and an after-the-fact grading permit is required to clear the violation. The vegetation removal did not involve grading and did not violate any County permitting requirements. Land clearing and vegetation removal in an area less than 1 acre, and on slopes of less than 15 percent, does not require a grading permit pursuant to Monterey County Code Section 16.12.080. The permit for the single family dwelling, garage/workshop, and orchard involves the need for additional grading of approximately 1,200 cubic yards of cut and 3,200 cubic yards of grading (total of 1,430 cy cut and 3,200 cy fill, inclusive of the water tank area). Since there was grading (Approx. 230 cubic yards) around the water tanks, this entitlement has been modified to include consideration of grading after-the-fact and to rectify the violation.

- 2. Concern: The project includes approximately 4,400 CY grading according to the first page of the plans. Grading is not mentioned in the County's project description, despite County planning documents that state that grading must be included in the description. It also is not clear whether the 4,400 CY includes the past grading.**

County Response: The county does not include grading as part of the project description. This information can generally be found in other documents, such as project description in Accela, the staff report, and/or the draft resolutions, and is included in the final resolution. The act of grading does not itself require a planning entitlement and therefore is not part of the general description of most development projects however, the County does attempt to address grading as part of project assessments. As noted above, the after the fact grading of 230 cubic yard has been incorporated in the description in this case given the written request for information received by staff. One thousand seven hundred cubic yards of fill will be imported to the site during construction.

- 3. Concern: "The CEQA baseline water use is zero. There is no estimate of water use or analysis of the water supply and demand. The project proposes a swimming pool, a guest house, and acres of orchards, all of which should be included in the proposed future water use. The MPWMD requires a permit for new irrigated areas such as the new orchard. The plans show acres of new orchards that are not disclosed in the public hearing notice. The water source for irrigation of the agricultural uses should be disclosed and investigated for adequacy of supply and water rights. The county water source should be clarified. The County mentions "Cal Am" but that is the distributor, not the source. The County should disclose actual water source and the impacts of the proposed new uses and demand on the water supply. The likely water source is the Seaside Basin. Cal Am does not have the legal right to pump that additional water from the adjudicated Seaside basin."**

County Response: Water for the new single family dwelling and workshop will come from a connection to the California American Water Hidden Hills unit which obtains its water from Bay Ridge well located in the Hidden Hills subdivision area. Water for the proposed olive tree orchard will come from an onsite irrigation well and rainwater collection system. Water demand for the house will be typical of a single family dwelling (approximately 0.4 acre feet per year) and irrigation for the orchard is only needed to get the

orchard established. A letter dated August 5, 2019 was received from Monterey Peninsula Water Management District (MPWMD) from Stephanie Kister Campbell (**See Exhibit D**) addressing the water issue for this site. It states MPWMD manages the water supply and processes water permits for all properties within its boundaries. The Hidden Hills neighborhood is served by a system known as Carmel Valley Mutual, a water company that was purchased by Cal-Am some years ago and is now known as the Hidden Hills unit. The system currently has water available for new connections and additions. MPWMD will process a water permit application for a new connection when a complete approved set of construction plans is submitted with a signed application. Furthermore, Cal -Am did file for a proposed moratorium on new connections for the Hidden Hills, Bishop, and Ryan Ranch unit. This moratorium is under review by the California Public Utilities Commission (CPUC). Review may take anywhere from 5 months to 18 months. If a moratorium is approved before the meter is set, it would prevent the applicant from getting a connection to the system for the lot. A recent correspondence dated November 19, 2019 received by Stephanie Locke at MPWMD states the soonest a moratorium will be approved or denied would be summer of 2020. However, it is likely that his timeline will be extended. In the meantime, there is no moratorium on new connections to the water system and the discussion of prohibiting development on that basis is not ripe.

- 4. Concern: “The workshop is a 345 square foot unit that has glass French doors with glass side lights that open onto a patio and views. The unit includes a walk-in closet and a full bathroom with toilet, sink and tub/shower. It has a stone pathway from the patio to the main house. It is a guest house use and potential ADU and must be disclosed in the project description and the environmental analysis”**

County Response: According to the applicant, the 345 square foot space connected to the garage is to be used as a workshop and not a guesthouse. If the applicant desires to make this space a guesthouse, this is an allowed use pursuant to the Resource Conversation zoning district, Section 21.36.030. Furthermore, a full bathroom and closet is not prohibited in a workshop. The floor plans submitted show a garage with storage area separated by a wall from a workshop and bathroom. The workshop has French doors and the garage has garage doors. This is not inconsistent with County codes or regulations.

- 5. Concern: “The County should ensure the project descriptions are accurate and complete. A project description should inform the decision makers and to provide sufficient information to the neighbors and the public so they can provide informed comments.”**

County Response: Pursuant to Planning and Zoning Law Section 65094, “Notice of public hearing” means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing. Required notice information was provided for the originally scheduled Administrative hearing. However, given the comments received following the original notice, additional information (grading quantities and the proposed orchard), have been added to the project description for clarity. If proposed on their own, the grading and the orchard would require only ministerial approval. The entitlements being considered in this case include an Administrative Permit and Design Approval for a new residence and garage. Grading associated with required permits is analyzed as part of the development review but need not be part of the project description or notice.

- 6. Concern: “This project as a whole, with all its components, is not exempt from CEQA. The**

**County should disclose and review the whole of the action.”**

County Response: Staff finds that the project is a single-family dwelling which qualifies for a Class 3 Categorical Exemption pursuant to Section 15303(a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2. Class 3 consists of construction and location of limited numbers of new, small facilities and structures. Examples of this exemption include, but are not limited to one single-family residence, or a second dwelling unit in a residential zone. 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. The project will not impact sensitive environmental resources and there will be no significant effect on the environment due to unusual circumstances. The site is not included on any list compiled pursuant to Section 65962.5 of the Government Code to be considered on a hazardous waste site.

- 7. Concern: “The project site is potential habitat for the Carmel Valley bush mallow, a protected species. It also is possible that it is part of the wildlife corridor. That area is increasingly blocked off by fences through which wildlife cannot pass. The County should require a professional biological report.”**

County Response: According to County’s G.I.S., no biological resources are present other than oak savanna. Since no trees are proposed for removal, there are no biological resources significantly impacted by this project. Pursuant to Monterey County Code, Section 21.66.020, a biological survey shall be required for all proposed development meeting one or more of the following criteria:

- a. The development is proposed within a known environmentally sensitive habitat, based on the most current resource maps, other reliable other available resource information, or through the planner’s on-site investigation;
- b. The development is located within 100 feet of an environmentally sensitive habitat, and has potential negative impact on the long-term maintenance of the habitat.

The proposed project does not meet either of the criteria listed above which would require a biological survey to be prepared. Therefore, one was not requested or required by staff in this case.

*Development Standards and Design*

The applicable development standards for the RC zoning district are identified in Monterey County Code (MCC) Section 21.36. These standards require setbacks for the main dwelling unit of: 30 feet (front), 20 feet (rear), and 20 feet (sides). The proposed dwelling has a 125 feet setback from the front along the front of the property 120 feet from the rear of the property and is 99 feet to the closet side.

Maximum allowed structure height is 35 feet. The proposed height for the single-family dwelling is 20’1”. The allowed maximum site coverage in the RC district is 25 percent. The property is 10.31 acres (449,107 square feet), which would allow site coverage of approximately 112,276 square feet. The proposed single-family dwelling and garage would result in site coverage of approximately 4,436 square feet or 0.9 percent. Therefore, as proposed, the project meets all required development standards.

The proposed residence is compatible with the surrounding neighborhood character in terms of size, color,

location. The architecture style of the neighborhood is comprised of mixed designs ranging from classic to farmhouse. Colors are simple white and earth tones. The materials are clay barrel tile roofing, copper half round gutter, bronze aluminum clad doors and windows and a natural mahogany front door to incorporate the rustic and traditional Spanish Mediterranean architecture.

Staff conducted site visits on October 19, 2018. The project was staked and flagged and staff determined the proposed structure was appropriately sited for the lot. The project will not have a substantial adverse visual impact from Laureles Grade or any other public roads. No tree removal has been proposed, slopes in excess of 25% are avoided, and the development will not adversely affect resources at the site or be adversely affected by those resources.

Based on the above analysis, staff concludes that the proposed project is consistent with the 2010 Monterey County General Plan, the Greater Monterey Peninsula Area Plan, and the Zoning Code (Title 21) and the site is suitable for proposed dwelling.

#### ENVIRONMENTAL REVIEW:

The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project. California Environmental Quality Act (CEQA) Guidelines Section 15303(a) categorically exempts a single-family residence and accessory structures including garages within residentially zoned areas. The proposed project involves the construction of a single-family residence and detached garage/workshop, and a 1.4 acre olive orchard, all located within a residential zone that permit residential use and agricultural use.

#### 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
- Monterey Regional Fire Protection District

#### LUAC

The project was not originally referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review when it was scheduled for an administrative approval. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because the proposed project does not require CEQA review (i.e. did not require an initial study); the project does not involve a lot line adjustment with conflicts; and the project did not include a variance; However, the project was elevated to a public hearing, therefore, it was sent to LUAC for review. The Greater Monterey Peninsula LUAC reviewed this project on November 19, 2019. and unanimously recommended approval by a vote of 3-0. The only recommendation made was to design the sky light with an opaque glass to eliminate glare to the night sky.

#### FINANCING:

Funding for staff time associated with this project is included in the FY19-20 Adopted Budgets for RMA-Planning.

Prepared by: Son Pham-Gallardo, Associate Planner, x5226  
Reviewed by: Craig Spencer, RMA Planning 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 - Project Data Sheet
- Exhibit B - Resolution
  - Recommended Conditions of Approval
  - Site Plan, Floor Plans and Elevations
- Exhibit C - Vicinity Map
- Exhibit D - Correspondence from MPWMD
- Exhibit E - LUAC Minutes
- Exhibit F - Interested Party Letter

cc: Front Counter Copy; Zoning Administrator; Craig Spencer, RMA Services Manager; Rey & Clark, Property Owner; Adrian Lopez; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Interested Party List in Accela (Michael Weaver); Project Files PLN180438.