



County of Monterey

Item No.1

Zoning Administrator

Legistar File Number: ZA 24-027

August 15, 2024

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Current Status: Agenda Ready

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Matter Type: Zoning Administrator

PLN230004 - ANDERSON KENNETH J & ROSANNE P TRS

Continued from an Administrative Hearing on July 3, 2024, public hearing to consider allowing construction of a 2,487 square foot single family dwelling with an attached 325 square foot accessory dwelling unit, an attached 462 square foot garage, associated site improvements including 760 square feet of decks, removal of two protected oak trees, and development on slopes exceeding 25%.

Project Location: 25900 Enclave Court, Monterey

Proposed CEQA Action: Find the project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303, and none of the exceptions in Section 15300.2 apply to the project.

RECOMMENDATIONS

It is recommended that the Zoning Administrator adopt a Resolution:

- a. Finding the project categorically exempt pursuant CEQA Guidelines section 15303 and none of the exceptions in Section 15300.2 apply to the project; and
- b. Approving a Combined Development Permit consisting of:
 1. an Administrative Permit and Design Approval to allow the construction of a 2,487 square foot single family dwelling with an attached 325 square foot accessory dwelling unit, an attached 462 square foot garage, associated site improvements including 760 square feet of decks;
 2. a Use Permit to allow development on slopes exceeding 25%; and
 3. a Tree Removal Permit to allow removal of two protected Coast live oak trees.The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 10 conditions of approval.

PROJECT INFORMATION

Agent: Mark Norris

Property Owner: Kenneth Anderson

APN: 416-133-039-000

Parcel Size: 3.7 Acres

Zoning: Rural Density Residential, 5.1 acres per unit with Design Control and Site Plan Review overlay districts or "RDR/5.1-D-S"

Plan Area: Greater Monterey Peninsula Area Plan

Flagged and Staked: Yes

SUMMARY

The project is located at 25900 Enclave Court, Monterey, and is subject to the policies of the 2010 Monterey County General Plan and the Greater Monterey Peninsula Area Plan. The proposed project includes construction of a 2,487 square foot single family dwelling with an attached ADU and garage, and the removal of 2 Coast live oak trees. There is development on slopes exceeding 25% to install the septic dispersal system. The project is consistent with applicable goals and policies in the 2010 Monterey County General Plan, policies in the Greater Monterey Peninsula Area Plan, and regulations and development standards contained in Title 21 Zoning Ordinance. This project was previously scheduled for the July 3, 2024 Administrative Hearing. However, the hearing was continued and the project was referred to the Zoning Administrator to consider a Use Permit to allow development on slopes exceeding 25%. The continuance is further detailed in the Discussion section below.

Two protected Coast live oaks are proposed for removal. The Arborist Report (LIB230317) confirmed two trees must be removed to allow the new construction as both are within the footprint of the proposed single family dwelling. No discretionary permit has been applied to this project for the removal of these trees. Per Title 21 Section 21.64.260.D.2, removal of fewer than 3 protected trees in a one-year period may be approved administratively.

An archaeological report (LIB020052) prepared for the Bay Ridge Subdivision concluded that there was no surface evidence of potentially significant archaeological resources. There are no recorded archaeological sites located within the subject area, or within a one half mile radius of the subject area. The report did not recommend further investigation.

Approximately 1,798 square feet of development on slopes exceeding 25% is proposed for the project consisting of: 311 square feet of grading to establish a portion of the driveway and 1,487 square feet to install the septic dispersal in the septic envelope designated by the original subdivision. A Use Permit has been applied for the development on slopes.

DISCUSSION:

Continuance

This project was previously scheduled for the July 3, 2024 Administrative hearing and continued to allow staff time for further review and analysis of potential development on slopes exceeding 25% and for consideration at a public hearing. Further review of the project indicated that the designated septic enveloped approved during the Bay Ridge-Addition No. 2 subdivision was on slopes exceeding 25%. This necessitated applying a Use Permit to the project proposal and scheduling a hearing with the Zoning Administrator.

Land Use & Development Standards

The parcel is zoned Rural Density Residential with a maximum gross density of 5.1 acres per unit, with Design Control and Site Plan Review overlays, or “RDR/5.1-D-S.” The proposal for a single family dwelling, attached accessory dwelling unit, and attached garage is consistent with the allowed uses of RDR as described in Title 21 Section 21.16.030.

The minimum required setbacks for main structures are 30 feet (front), 20 feet (side), and 20 feet (rear). The proposed single family dwelling is 52 feet from the west property line, and approximately one hundred and 162 feet from the east property line, both complying with the minimum side setback requirement, and the proposed project is approximately 270 feet from the rear property line, complying with the minimum rear setback. The proposed residence is 30 feet from the front setback, consistent with the front setback for main structures. However, the attached garage encroaches two feet into this front setback. The attached garage shares the same setback requirements as the main structure and is sited closest to the front setback, 28 feet from the front property line at the closest point. However, the setback exception in Title 21 section 21.62.040.N allows for an attached garage to be built to within five feet of the front line of the lot, where the front of a lot is significantly above or below a traveled roadway. For this exception to apply the elevation of the front half of the lot at a point 50 feet from the centerline of the traveled roadway must be either seven feet above or below the grade of said centerline. In this case, that point is 12 feet below the grade of said centerline. Therefore, the proposed 28 foot front setback is allowable without the need for a Variance.

The uncovered stairway on the north elevation also encroaches into the front setback. It is approximately 24 feet from the front property line. This is consistent with the exception described in Title 21 section 21.62.040.D, which allows for stairways to extend into any required front setback not exceeding 6 feet. Therefore, the proposed 24 foot front setback is also allowable.

The height maximum for main structures is 30 feet. The structure, inclusive of the residence, attached garage, and accessory dwelling unit is 27 feet and 6 inches in height from average natural grade. The maximum allowed site coverage is 25%. The lot is 3.7 acres, or 161,172 square feet. The proposed project lot coverage is 3,010 square feet, or 1.9%. The minimum required parking for a single-family residence is two cars, which is addressed by the two car garage. Therefore, the proposed development complies with all applicable development standards.

Tree Removal

Tree removal is subject to the regulations contained in Chapter 16.60 and Title 21 section 21.64.260, which requires an approval by the Chief of Planning for the removal of fewer than 3 protected trees in a one year period. Approval for removal requires findings be made demonstrating that the tree removal is the minimum required under the circumstances of the case and that the removal will not involve a risk of adverse environmental impacts. As part of this permit, the applicant submitted a Tree Assessment/Forest Management Plan, prepared by Frank Ono, dated June 5, 2023 (**Exhibit B**, Monterey County Document No. LIB230317).

The proposed tree removal is limited to two Coast live oak trees with diameters at breast height of 15 and 17 inches. The trees are in fair condition and are proposed for removal because they are located within the proposed building footprint. The proposed tree removal is the minimum required under the circumstances. The existing condition of the subject parcel is on a hillside with more than half of the property encumbered by slopes in excess of 25%. As proposed, the siting of the structure is in an area that minimizes development in relation to existing trees and slopes. Relocating the structure would involve more development resulting in additional tree removal and greater impacts to slopes.

Archaeology

The project site is in an area identified in County records as having moderate archaeological sensitivity. A previous archaeological report prepared for the subdivision (LIB020052) concluded that there was no surface evidence of potentially significant archaeological resources. There are no recorded archaeological sites located within the subject area, or within a one half mile radius of the subject area. Therefore, the project would not impact any known archaeological resources. A standard project condition (Condition No. 3) has been applied to control and limit any inadvertent impacts to cultural resources, which requires the contractor to stop work if previously unidentified resources are discovered during construction.

Development on Slopes

Development on slopes that exceed 25% is prohibited unless there is no feasible alternative that would allow development to occur on slopes less than 25%, or the proposed development better achieves the goals, policies, and objectives of the Monterey County General Plan and applicable land use plan than other development alternatives. In this case, there is no feasible alternative. The 3.7 acre property is located on a hillside. There are slopes in excess of 25% throughout thereby limiting potential development opportunities in areas with slopes less than 25%. There is also a scenic easement downhill and north of the proposed location for the single family dwelling that prohibits development. The site plan indicates that approximately 311 square feet of development on slopes exceeding 25% is for establishing the driveway. Moving the driveway in any direction would put it on slopes regardless, but would also impact existing trees. In addition, 1,487 square feet of development on slopes is for the leach field. This proposed location is within the designated area for the septic envelope created at the time of the subdivision.

CEQA:

The project is categorically exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines, "New Construction". This project qualifies for a Class 3 exemption because it includes the construction of a single-family dwelling on a vacant lot and would not result in any adverse impacts to the surrounding environmental resources as defined in the CEQA Guidelines. All of the necessary reports have been obtained and have concluded that it is unlikely the project would result in impacts to archaeological, forest or aesthetic resources. There are no exceptions pursuant to Section 15300.2. The project does not involve a designated historical resource, a hazardous waste site, or development located within a scenic highway. No evidence of significant adverse environmental effects was identified during staff review of the development application. The project is on one of two remaining undeveloped lots in the Bay Ridge - Addition No. 2 subdivision. Successive projects of the same type and in the same place would not occur and therefore would not result in contributing to a significant cumulative impact. The project - construction of a single family residence and associated site improvements on a property zoned to allow such uses and without potentially significant impacts - would not contribute to a potential cumulative impact.

OTHER AGENCY INVOLVEMENT

The following HCD groups and County agencies have reviewed the project, have comments, and/or have recommended conditions:

HCD-Engineering Services

Environmental Health Bureau

HCD-Environmental Services
Monterey County Regional Fire District

LUAC

The project requires review by a Land Use Advisory Committee (LUAC) in accordance with Board of Supervisor's Resolution 15-103. However, the project was not reviewed by the Greater LUAC as they do not have a sufficient amount of members to form a quorum.

Prepared by: Benjamin Moulton, Assistant Planner, x5240
Reviewed and Approved by: Anna Ginette Quenga, AICP, Principal Planner

The following attachments are on file with HCD:

Attachments

Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Site Plans, Floor Plans, Elevations, Colors and Materials

Exhibit B - Arborist Report

Exhibit C - Vicinity Map

Exhibit D - Project Data Sheet

cc: Front Counter Copy; Monterey County Regional Fire District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Benjamin Moulton, Planner; Anna Ginette Quenga, AICP, Principal Planner; Anderson Kenneth J & Rosanne P, Property Owners; Mark Norris, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Planning File PLN230004