

**MINOR SUBDIVISION COMMITTEE
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03020

MINOR SUBDIVISION # 000449

A.P. # 416-452-021-000

In the matter of the application of
Ray and Debby Borzini TRS (PLN000449)

FINDINGS AND DECISION

for a Minor Subdivision in accordance with Title 19 (Zoning) Chapter 19.04 (Minor Subdivisions) of the Monterey County Code, to allow the division of a 20-acre parcel into two 10-acre lots, located at 529 Corral De Tierra Road, Salinas, easterly of San Benancio Road, Toro area, came on regularly for meeting before the Minor Subdivision Committee on September 11, 2003.

Said Minor Subdivision Committee, having considered the application and the evidence presented relating thereto,

1. FINDING: The Minor Subdivision (File #PLN000449), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 529 Corral De Tierra Road, Toro area (Assessors Parcel No. 416-452-021). The parcel is zoned "RC/10-VS (Resource Conservation, 10 Acres Per Unit, Visual Sensitivity).

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) Monterey County General Plan;
- b) Toro Area Plan;
- c) Chapter 21.36 and 21.46 of the Monterey County Zoning Ordinance; and
- d) Monterey County Subdivision Ordinance (Title 19) December 2000.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, the Housing and Redevelopment Agency and the Salinas Rural Fire District. There has been no indication from these agencies that the site is not suitable for the proposed development. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for subdivision improvements.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Minor Subdivision Committee.

EVIDENCE: The Toro Land Use Advisory Committee recommended approval of the parcel map on March 24, 2003 (3-1 vote, 1 abstain, 1 absent).

EVIDENCE: The on-site inspection of the subject parcel by the project planner on March 23, 2003

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: All structures and infrastructure necessary to serve the project are existing.

EVIDENCE: The project will conform with the requirements of the VS zoning district. No significant visual impacts will occur, because no new development is proposed with the subdivision. Additionally, a Use Permit will be required for any future development on the site, if it is determined by the Planning Director that visual impacts could result from any such project.

2. FINDING: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Negative Declaration was filed with the County Clerk on August 20, 2003. The following evidence has been received and considered: All comments on the Initial Study; evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

1. Project Application/Plans
2. Initial Water Use / Nitrate Impact Questionnaire Responses
3. Toro Area Plan
4. Planner site visit, March 23, 2003
5. Soil Survey of Monterey County, April, 1978. United States Department of Agriculture, Soil Conservation Service
6. Geotechnical and Percolation Investigation, Soil Surveys, Inc., December 20, 2002
7. Biological Survey of Ray Borzini Property, Ed Mercurio, May 10, 2002
8. Project Specific Hydrogeologic Report, Mactec Engineering, December 13, 2002
9. Geologic Report for 529 Corral de Tierra Road, CapRock, February 20, 2003
10. Monterey County ARC-IMS Geographic Information System
11. Monterey County General Plan
12. 2000 Air Quality Management Plan
13. General Plan Update Environmental Impact Report, March 27, 2002
14. Title 21, Inland Zoning Regulations
15. Personal Communication with Janet Brennan, Monterey Bay Unified Air Pollution Control District, August 3, 2003
16. Personal Communication with Bruce King, Mactec Engineering, August 5, 2003
17. Personal Communication with Ron Ludes, H. D. Peters Company, August 6, 2003
18. Personal Communication with Bryce Hori, Public Works, August 18, 2003

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

3. **FINDING:** For Purposes of the Fish and Game Code, the project will not have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Initial Study and Negative Declaration contained in the project file.

4. **FINDING:** That in approving the parcel map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.

EVIDENCE: The applicant will be required to comply with the Inclusionary Housing Ordinance as a condition of approval (see Condition 3).

5. **FINDING:** That none of the findings found in Section 19.04.025.I of the Monterey County Code Title 19 (Subdivision Ordinance) can be made.

EVIDENCE: Section 19.03.025.I requires that the subdivision be denied if any one of the findings are made. Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the County General Plan and Toro Area Plan. No specific plan has been prepared for this area. The site has been determined to be physically suitable for the type and density of development (see Evidence in Findings 1, 2, 5, 8). The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the Negative Declaration adopted for this project. The design and improvements will not conflict with easements for access through or use of property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

EVIDENCE: The property provides for adequate building sites as evidenced by the application materials submitted for the project. Each of the three parcels is at least 10 acres in size, and each is developed with a dwelling unit, and meets the requirements of the VS district, as indicated in Evidence for Finding 1.

EVIDENCE: The application, plans, and support materials, including the technical reports submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development. The reports are:

1. Geotechnical and Percolation Investigation, Soil Surveys, Inc., December 20, 2002
2. Biological Survey of Ray Borzini Property, Ed Mercurio, May 10, 2002
3. Project Specific Hydrogeologic Report, Mactec Engineering, December 13, 2002

4. Geologic Report for 529 Corral de Tierra Road, CapRock, February 20, 2003

EVIDENCE: Evidence for Findings 1, 2 and 4 above.

6. **FINDING:** The subject property is in compliance with all the rules and regulations pertaining to zoning; uses, subdivision, and any other applicable provisions of Title 21.36 and any zoning violation abatement costs have been paid.

EVIDENCE: Site visit and inspection by Planner, review of county records, and the tentative parcel map and application materials found in the project file

7. **FINDING:** That the proposed subdivision will not adversely impact traffic conditions in the area.

EVIDENCE: The proposed subdivision has been reviewed by the Monterey County Department of Public Works and there is no indication from that Department that the subdivision will negatively impact traffic in the area.

EVIDENCE: Project initial study

8. **FINDING:** The project is appealable to the Board of Supervisors.

EVIDENCE: Section 19.16.020.B. of the Monterey County Subdivision Ordinance (Title 19).

9. **FINDING:** The source capacity and water quality for all lots proposed to be created meets the requirements of all applicable health and safety regulations.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Environmental Health Division and the Water Resources Agency. The respective departments determined can be conditioned to meet the requirements of all applicable health and safety regulations.

EVIDENCE: Project Specific Hydrogeologic Report, Mactec Engineering, December 13, 2002

EVIDENCE: The application, plans, and support materials, submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed subdivision.

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee, to adopt the proposed Negative Declaration and approve said application for Minor Subdivision as shown on the attached sketch, subject to the following conditions:

1. The subject Minor Subdivision (File #PLN000449), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located 529 Corral De Tierra Road (Assessors Parcel No. 416-452-021), Toro area.

The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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 Planning and Building Inspection. 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. **(Planning and Building Inspection)**

Prior to recordation of a Final Map:

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, or filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. **(Planning and Building Inspection)**

3. A scenic easement shall be conveyed to the County over those portions of the property north of the toe of the existing hillside areas, as shown on the Site Plan for Ray Borzini, dated 8/2000, in the project file. **(Planning and Building Inspection Department)**

4. A note shall be included on a separate sheet of the parcel map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: "A Geologic Report, Geotechnical Investigation, Biological Survey and Cultural Resources Reconnaissance have been prepared for this property as listed below, and are on file in the Monterey County Planning and Building Inspection Department, Coastal Office. The recommendations contained in said reports shall be followed in all further development of this property."
 - Geotechnical and Percolation Investigation, Soil Surveys, Inc., December 20, 2002
 - Biological Survey of Ray Borzini Property, Ed Mercurio, May 10, 2002
 - Project Specific Hydrogeologic Report, Mactec Engineering, December 13, 2002
 - Geologic Report for 529 Corral de Tierra Road, CapRock, February 20, 2003

The note shall be located in a conspicuous location, subject to the approval of the County Surveyor. **(Planning and Building Inspection)**

5. The applicant shall record a notice that states: “A permit (Resolution 03020) was approved by the Minor Subdivision Committee for Assessor's Parcel Number 416-452-021 on September 11, 2003. The permit was granted subject to 15 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department.” Alternatively, this note shall be included on a separate sheet of the parcel map, or by separate document that shall indicate its relationship to the parcel map, recorded simultaneously with the parcel map. Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits, recording of the parcel map, or commencement of the use. **(Planning and Building Inspection)**
6. Prior to the conveyance of any lots in the subdivision, developer shall have the sole responsibility for the care, maintenance, and repair of road and drainage improvements installed as a condition of approval of the subdivision. Upon each conveyance of each lot in the subdivision, developer shall be jointly obligated with the succeeding owners to perform such obligation pro rated on the basis of the remaining number of lots still owned by the developer. Developer’s obligation shall cease upon the conveyance of the last lot in the subdivision. An agreement to this effect, running with the land, shall be recorded between developer and the County of Monterey prior to recordation of the tentative or parcel map. **(Water Resources Agency)**
7. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. **(Water Resources Agency)**
8. File a parcel map showing all existing and required easements or rights of way and monument new lines. **(Public Works)**
9. Provide for all existing and required easements or rights of way. **(Public Works)**
10. The applicant shall contribute \$9,750 as a pro rata share towards State Highway 68 improvements. **(Public Works)**
11. Thirty days prior to the expiration date of the tentative map, Step a (8 items) of the County Surveyor’s Check Off List for Parcel Map processing shall be completed. **(Public Works)**
12. Design the water system improvements to meet the standards as found in Chapter 15.04 of the Monterey County Code, Titles 17 and 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements, including plans for secondary treatment, and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) the improvements. **(Environmental Health)**
13. Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed

water system improvements have been approved by the local fire protection agency prior to installation or bonding of water system improvements. **(Environmental Health)**

14. The developer shall install or bond the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final (parcel) map. **(Environmental Health)**

15. The applicant shall record a deed notification with the Monterey County Recorder for parcel B prior to filing the Final/Parcel Map indicating that;

"A septic system with a dual leach field shall be installed at the time of initial construction."
(Environmental Health)

PASSED AND ADOPTED this 11th day of September, 2003.

Original Signed By:

ANN TOWNER, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE MONTEREY COUNTY BOARD OF SUPERVISORS PURSUANT TO ORDINANCE 19.16.020A. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 the Monterey County Planning and Building Inspection Department office in Salinas.

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