

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

RESOLUTION NO. 04013

A. P. # 167-061-032-000-M

In the matter of the application of
Don & Jay Avila (PLN980516)

FINDINGS & DECISION

to allow a Combined Development Permit in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of a General Plan Amendment from Farmlands (40 acre minimum lot size) and Rural Grazing (40 acre minimum lot size) to LDR/5-D (Low Density Residential, 5 acres per unit minimum lot size, Design Approval); rezoning from F/40-d (Farmlands, 40-acre minimum lot size, Design Approval) and RG/40-D (Rural Grazing, 40-acre minimum lot size, Design Approval) to LDR/5; subdivision of 55 acres into 5 acre parcels for 11 lots with a remainder parcel of 186.7 acres created by a lot line adjustment and subdivision of 17 acres into 3 parcels of 5 acres (2) and 7 acres (1); and Variance for relief from Section 21.66.030.f.2.a (Agricultural Buffer Zone), located approximately 0.5 miles northwest of the intersection of River Road and Chualar River Road, Toro area, came on regularly for meeting before the Standard Subdivision Committee on July 8, 2004.

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

1. **FINDING:** The General Plan Amendment, Zone Change, Subdivision Lot Line Adjustment and Variance (**File No. PLN980516**), 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 844, 870, 874 River Road, Salinas area (Assessors Parcel Nos. 167-061-029 (Samoske), 167-061-032 (Riehl), 167-061-033 (Mohsin)). The parcels are zoned F/40-D (Farmlands, 40 acres minimum, with Design Approval overlay - 167-061-029, Samoske); PG/40-D (Permanent Grazing, with Design Approval overlay - 167-061-032, Riehl); PG/40-D (167-061-033, Mohsin)

- EVIDENCE:**
- A. 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 21.14, 21.72 and 21.88 of the Monterey County Zoning Ordinance; and
 - d) Monterey County Subdivision Ordinance (Title 19) December 2000.
 - B. 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, the Salinas Rural

Fire Protection District and Agricultural Commissioner have reviewed the proposed development. 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. Certain agencies have recommended conditions for the project.

- C. Written and verbal public testimony submitted at public hearings before the Standard Subdivision Committee
- D. The Toro Land Use Advisory Committee recommended denial of the parcel map on October 13, 1998 (3-1 vote, 1 absent), but voted for approval of the General Plan Amendment for the General Plan update public request phase on August 8, 2002 (3-2 vote).
- E. On-site inspections of the project site by the project planner
- F. 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.
- G. All structures and infrastructure necessary to serve the project exist or required through conditions of approval.

2. **FINDING:**

County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and Guidelines. The Initial Study provided substantial evidence that the project will not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on June 9, 2004. 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:

- a. Project Application File
- b. General Plan and Toro Area Plan
- c. Title 19 Subdivision Ordinance
- d. 2000 Air Quality Management Plan for the Monterey Bay Region.
- e. MBUAPCD CEQA Guidelines
- f. Burnstein – Remark Winery Trip Generation Study, Higgins Associates, April 15, 2003
- g. Monterey County Geographic Information System
- h. Geotechnical Soils-Foundation and Geologic Hazards Report for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998
- i. Agricultural Suitability and Land Capability Assessment, Avila, Pisoni and

Samoske Properties, Rush, Marcroft and Associates

- j. Hydrogeologic Report for the Moshsin and Samoske Subdivision, Grice Engineering Inc., September 2003
- k. Stormwater Drainage and Ground Water Impacts for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998
- l. Monterey County Draft Existing Conditions Report for the Monterey County 21st Century General Plan Update, Anne Towner, October 12, 1999
- m. Preliminary Archaeological Reconnaissance of Assessor's Parcel Number 167-061-025 and 167-061-029, Archaeological Consulting, June 18, 1997
- n. Percolation and Groundwater Study with Septic System Design Recommendations for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998
- o. Monterey County Growth Management Policy (Adopted by Board of Supervisors Resolution No. 79-478, October 9, 1979)
- p. Personal Communication with Sharon Smith, Business Manager, Spreckels Union School District, February 23, 2004
- q. Personal Communication with James Earhart, Business Manager, Salinas Union High School District, February 25, 2004
- r. March 11, 2004 Salinas Rural Fire District letter
- s. Personal Communication with Bryce Hori, Public Works, April 20, 2004

- EVIDENCE:**
- A. 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.
 - B. 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.
 - C. 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:** 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 [-]).*

4. **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:**
- A. 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). The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish, 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.
 - B. The property provides for adequate building sites, subject to approval of the variance request, as evidenced by the application materials submitted for the project.
 - C. 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:
 - a. Geotechnical Soils-Foundation and Geologic Hazards Report for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998
 - b. Agricultural Suitability and Land Capability Assessment, Avila, Pisoni and Samoske Properties, Rush, Marcroft and Associates
 - c. Hydrogeologic Report for the Moshsin and Samoske Subdivision, Grice Engineering Inc., September 2003
 - d. Stormwater Drainage and Ground Water Impacts for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998
 - e. Preliminary Archaeological Reconnaissance of Assessor's Parcel Number 167-061-025 and 167-061-029, Archaeological Consulting, June 18, 1997
 - f. Percolation and Groundwater Study with Septic System Design Recommendations for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998

5. **FINDING:** The subject property is in compliance with all the rules and regulations pertaining to zoning; uses, subdivision, and any other applicable provisions of Chapters 21.30, 21.21.34, 21.44 and 21.45 and any zoning violation abatement costs have been paid.

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

6. **FINDING:** That the proposed subdivision will not adversely impact traffic conditions in the area.
- A. 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.
 - B. Project initial study

7. **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:**
- A. 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 the project can be conditioned to meet the requirements of all applicable health and safety regulations.
 - B. Project Hydrogeologic report
 - C. The application, plans, and support materials, submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed subdivision.

8. **FINDING** *Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The agricultural viability report prepared for the project concluded the property is not prime farmland and has a low suitability for farming use. Further, the owners state the property has never been farmed. A review of the agricultural viability report supports an argument that the abutting properties share the same soil characteristics that make the project parcels infeasible for agricultural use. Soils of abutting parcels are primarily of the Arroyo Seco gravelly sandy loam (AsB) and Gloia sandy loam (GhC). The report classifies these soils within the Class III Capability Class. This soil class is characterized by severe limitations that reduce the choice of plants, require special conservation practices or both, making this type of soil sub-prime for agricultural use. The local soil conditions making the subject and surrounding agriculturally zoned parcels infeasible for agricultural use are a unique physical circumstance, justifying relief from the agricultural buffer requirement.

Further, abutting parcels are not in agricultural production, but are developed with single-family homes. A number of the single-family homes on surrounding parcels are situated on five-acre lots, within 200 feet of parcels zoned for agricultural use. Applying the 200-foot agricultural buffer requirement to the proposed five-acre parcels would make the Samoske portion of the project infeasible, because the existing lot width is too narrow to allow for any buildable area if the buffer requirement were applied. The requirement would also severely constrain development potential for the Mohsin portion of the project, limiting development of homes to a relatively narrow area down the center of the existing parcel. Therefore, application of the buffer requirement would deprive the subject property of privileges enjoyed by other properties in the vicinity, under identical zoning classification. These privileges include lot sizes of five acres, and situation of single-family homes within 200 feet of abutting, agriculturally zoned parcels.

- EVIDENCE:**
- A. Agricultural Viability Report in project file PLN980516
 - B. Aerial photographs in project file PLN980516

C. Planner site visits

9 **FINDING**

That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;

Because a number of surrounding parcels are five acres in size and developed with structures located within the 200-foot buffer area, granting the subject parcels relief from the buffer requirement will not grant a special privilege inconsistent with limitations on surrounding parcels. Further, soil conditions making the subject parcels infeasible for agricultural productions also exist on surrounding parcels, making surrounding parcels potentially eligible for similar relief from the buffer requirement through the variance process.

EVIDENCE: Evidence for Finding 8, above.

10. **FINDING**

A Variance shall not be granted for a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The parcels will be developed with single-family homes and associated accessory structures and uses. These uses are expressly permitted in the proposed Low Density Residential zoning.

EVIDENCE: A. Section 21.14 (Regulations for Low Density Residential Zoning Districts)

EVIDENCE: B. Evidence for 1, above

11. **FINDING**

The qualifications of Section 21.72.040(A) and (B) apply to the land, structure, or use of which the Variance is sought

EVIDENCE: Findings and Evidence for 8-10, above.

DECISION

It is the decision of the Standard Subdivision Committee of the County of Monterey to recommend that the Planning Commission recommend approval of the described project to the Board of Supervisors based on the Findings and Evidence subject to the proposed Conditions of Approval.

PASSED AND ADOPTED this 8th day of July, 2004.

LYNNE MOUNDAY
Acting Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON