

RESOLUTION NO. 000543

A.P.# 416-161-009-000

In the matter of the application of  
**Aytac and Jana Apaydin (PLN000543)**

**FINDINGS & DECISION**

for an Administrative Permit in accordance with Title 21 (Zoning) Chapter 21.70 (Administrative Permits) of the Monterey County Code, to allow a 2,168 sq. ft. addition to an existing single-family dwelling, where pier supports and utility trenching for the addition would be located on a man-made slope exceeding 30% [per Section 21.64.230C(2)], and Design Approval for the structure addition in a "RDR-B6/VS" (Rural Density Residential/Visually Sensitive) zone where the project will not be visible from a public viewing point [per Section 21.46.040]; located at 25432 Boots Road, Monterey, Halycon Hills, Greater Monterey Peninsula area, came on regularly for meeting before the Zoning Administrator on October 11, 2001.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING:** The subject Administrative Permit and Design Approval, as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 25435 Boots Road. The parcel is zoned "RDR-B6/VS" or Rural Density Residential/Visual Sensitivity. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.  
**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and the Greater Monterey Peninsula Area Plan.  
**EVIDENCE:** The project site is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, and Salinas Rural Fire District. There has been no indication from these agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval.  
**EVIDENCE:** The proposed use is consistent with the development standards for Low Density Residential and Visual Sensitivity zoning, pursuant to Title 21, Monterey County Zoning Ordinance.  
**EVIDENCE:** Design Approval request form, with recommendation for approval of the project by the Greater Monterey Peninsula Area Land Use Advisory Committee on 9/7/01, by a vote of 2-0-0.  
**EVIDENCE:** Written and verbal public testimony submitted at public hearings before the Zoning Administrator.  
**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:** Sections 21.64.230 and 21.46.040 of the Monterey County Zoning Ordinance (Title 21). Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

**EVIDENCE:** The on-site inspection by the project planner to verify that the proposed project complies with the policies of the Greater Monterey Peninsula Area Plan.

2. **FINDING:** The proposed project will not have a significant environmental impact.

**EVIDENCE:** Sections 15301 and 15304 of the CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application. A Notice of Exemption was filed with the County Clerk on 9/10/01.

3. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, Salinas Rural Fire District, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

**EVIDENCE:** File and application materials contained in the project file.

4. **FINDING:** Based on substantial evidence, there is no feasible alternative, which would allow development to occur on slopes of less than 30%.

**EVIDENCE:** On-site inspection by the project planner confirmed that the site is located on a downsloping lot developed with an existing single-family dwelling on a level pad. Additionally, the hillside has been graded and all areas disturbed. The addition would occur at the top of a pregraded slope and is proposed as a cantilevered structure attached to the existing dwelling, as opposed to introducing extensive fill material to enlarge the existing pad.

5. **FINDING:** In lieu of a separate Administrative Permit for development in a "VS" zoning district, the Director of Planning and Building Inspection, or his designee, may approve structural additions where the development, will not create a substantially adverse visual impact when viewed from a common public viewing area.

**EVIDENCE:** The applicant staked and flagged the project. The staff planner viewed the site twice from points along Highway 68, the nearest common public viewing area, and found that the project was only visible from the Pasadera Development entrance. The Land Use Advisory Committee viewed the site and recommended approval.

6. **EVIDENCE:** The project is appealable to the Planning Commission.

**FINDING:** Section 21.80.040 (B) of Title 21 (Zoning Ordinance).

## DECISION

THEREFORE, it is the decision of said Zoning Administrator, that said application for an Administrative Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Use Permit consists of a 2,168 sq. ft. addition to an existing single-family dwelling, where pier supports and utility trenching for the addition would be located on a man-made slope exceeding 30% [per Section 21.64.230C(2)], and Design Approval for the structure addition in a "RDR-B6/VS" (Rural Density Residential/Visually Sensitive) zone where the project will not be visible from a public viewing point [per Section 21.46.040]. The project is located at 25435 Boot Road, (Assessor's Parcel Number #416-161-009-000) in the Greater Monterey Peninsula Area. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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 the Issuance of Grading and Building Permits:

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, 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. The applicant shall record a notice which states: "A permit (Resolution 000543) was approved by the Zoning Administrator for Assessor's Parcel Number # 416-161-009-000 on October 11, 2001. The permit was granted subject to 11 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." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
4. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit

- 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
5. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
  6. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**
  7. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
  8. Prior to the issuance of a building or grading permit, the applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Water Release Form. **(Water Resources Agency)**

**Prior to Final Building Inspection/Occupancy:**

9. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
  - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
  - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**
10. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**

**Continuous Permit Conditions:**

11. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 11th day of **October, 2001**.

  
LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON **OCT 16 2001**

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **OCT 26 2001**

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

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.