



Staff Report to the Zoning Administrator

Application Number: **141170**

Applicant: Richard Emigh
Owner: Bradberry
APN: 105-202-28

Agenda Date: February 5, 2016
Agenda Item #: 2
Time: After 9:00 a.m.

Project Description: Proposal to construct a new 1,700 square foot single family dwelling and detached 670 square foot two story garage containing a half bathroom. Requires a Variance to reduce the required 40 foot front yard setback to 10 feet for the construction of the home and 18 feet for the garage and Residential Development Permit for the an accessory structure in excess of 1,000 square feet containing a half bathroom.

Location: Property located on the south side of Day Valley Road across from Jingle Lane.

Supervisory District: Second District (District Supervisor: Friend)

Permits Required: Variance and Residential Development Permit

Technical Reviews: Geologic Hazards Assessment and Soils Report Review

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 141170, based on the attached findings and conditions.

Exhibits

- | | |
|---|---|
| A. Categorical Exemption (CEQA determination) | E. Assessor's, Location, Zoning and General Plan Maps |
| B. Findings | F. Comments & Correspondence |
| C. Conditions | |
| D. Project plans | |

Parcel Information

Parcel Size:	Approximately 40,000 square feet
Existing Land Use - Parcel:	Vacant
Existing Land Use - Surrounding:	Residential
Project Access:	Day Valley Road
Planning Area:	Aptos Hills
Land Use Designation:	R-S (Suburban Residential)

Zone District:	RA (Residential Agriculture)	
Coastal Zone:	<input type="checkbox"/> Inside	<input checked="" type="checkbox"/> Outside
Appealable to Calif. Coastal Comm.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Environmental Information

Geologic Hazards:	Slope instability
Soils:	Combined Geologic & Geotechnical report reviewed (REV141088)
Fire Hazard:	Not a mapped constraint
Slopes:	Located at the base of 30%-60% slopes
Env. Sen. Habitat:	Not mapped/no physical evidence on site
Grading:	No grading proposed
Tree Removal:	No trees proposed to be removed
Scenic:	Not a mapped resource
Drainage:	Existing drainage adequate
Archeology:	Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line:	<input type="checkbox"/> Inside	<input checked="" type="checkbox"/> Outside
Water Supply:	Central Water District	
Sewage Disposal:	Septic	
Fire District:	Aptos LaSelva Fire Protection District	
Drainage District:	Outside Flood Control District	

Project Setting

The subject property is vacant and located on the south side of Day Valley Road. The surrounding parcels are developed with single family dwellings. The Day Valley area is characterized by parcels of approximately one acre in size with variable terrain. Slope instability with potential for low lying areas to flood is common in the area.

The subject parcel, originally consisting of two separate parcels, is heavily constrained in that the southern portion of the parcel is very steep and has a history of instability while the flat, low lying area contains an existing drainage feature (box culvert) that traverses to the front of the parcel.

The parcel has been evaluated by Nolan and Associates to determine the location of two geologically feasible building sites. These locations are situated between the drainage feature at the front of the parcel and the base of the steep terrain at the rear.

Variance

As proposed, a Variance to reduce the required 40 foot front yard setback to 10 feet for the construction of the home and 18 feet for the construction of the detached garage is being requested. Based on the analysis and reports prepared by the project geologist, the proposed reduction to the front yard setback is justified in that the subject parcel has topographic and

geologic constraints that restrict development to two specifically identified areas. Due to the parcel constraints, a variance to the front yard setback is necessary for the construction of the type of development found on other parcels in the vicinity.

Residential Development Permit

The proposed detached garage with second floor containing a half bathroom requires a Residential Development Permit. SCCC 13.10.611 allows for accessory structures up to 1,000 square feet in size located in the rural area. The proposed garage is slightly over the allowed square footage (1010 square feet) and will remain in character with the neighborhood. The request for a half bathroom is supported by the location of the garage approximately 80 feet from the main house.

Zoning & General Plan Consistency

The subject property is a parcel of approximately 40,000 square feet, located in the RA (Residential Agriculture) zone district, a designation which allows residential uses. The proposed single family dwelling with garage is a permitted use within the zone district and the zoning is consistent with the site's R-S (Suburban Residential) General Plan designation.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **141170**, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

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CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 141170

Assessor Parcel Number: 105-202-70

Project Location: no situs

Project Description: Construct a new 1,700 square foot single family dwelling and 1,010 square foot accessory structure.

Person or Agency Proposing Project: Richard Emigh

Contact Phone Number: (831) 479-1452

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
D. ☐ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).
E. ☒ **Categorical Exemption**

Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)

F. Reasons why the project is exempt:

Construction of a new single family dwelling and accessory structure in an area designated for residential uses.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Nathan MacBeth, Project Planner

Date: _____

Variance Findings

1. That because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

This finding can be made, in that project site is heavily constrained by 30 percent to 60 percent slopes at the rear of the property. As identified in the geologic report prepared by Nolan and Associates dated August 21, 2014, two geologically feasible building sites exist on the parcel. These building sites are located between the toe of the slope and an existing drainage feature consisting of a box culvert located at the front of the site. Due to the topography of the subject parcel, the proposed development requires a reduction to the required 40 foot front yard setback.

Due to potential flooding of the low lying (flat) portion of the parcel in which the proposed dwelling will be located, a redesign of the existing box culvert to a swale located further away from the home is proposed. The project has been conditioned to ensure compliance with County of Santa Cruz Department of Public Works Stormwater Management requirements.

2. That the granting of the variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity.

This finding can be made, in that due to specific site constraints of the subject parcel, development must be located within the identified building envelopes. The proposed reduction to the front yard setback will not adversely impact neighboring parcels in that the only reduced setback is that of the front yard which abuts Day Valley Road. As proposed, all development will remain a minimum of 20 feet from the edge of the travelled roadway. This distance is a minimum setback for street side yards in the RA zone district and consistent with setbacks of other structures in the neighborhood. The proposed development will not adversely impact vehicles traveling on the roadway.

3. That the granting of such variances shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

This finding can be made, in that the proposal is that of a modest home which is approximately 1,700 square feet in size. Additionally, the proposed detached 1,010 square foot garage is similar in size and design to that of other accessory structures found in the vicinity. As a whole, the project is characteristic of the type of development found in this semi-rural residential area.

Several parcels in the Day Valley area have site constraints related to slope instability. The proposed variances will not constitute a granting of special privileges in that the reduction of the required 40 foot front yard setback to 10 feet will result in a minimum distance of 20 feet to the travelled roadway which is consistent with the minimum side yard setback for parcels in the area.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for residential uses and construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed single family dwelling and detached garage will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structures meet current side and rear yard setbacks that ensure access to these amenities. The proposed reduction in the front yard setback from 40 feet to 10 feet will not result in an adverse impact on adjacent parcels with respect to availability to open space in that the property fronts Day Valley Road which provides sufficient access to these amenities.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed location of the single family dwelling and garage and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the RA (Residential Agriculture) zone district as the primary use of the property will be one single family dwelling and detached garage containing a half bath at the second floor. With the approval of a variance to reduce the front yard from 40 feet to 10 feet for the dwelling and 18 feet to the garage the project will meet all site standards for the zone district. Sufficient area will remain in front of the proposed garage for the parking of 2 full sized vehicles (8.5' x 18').

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the proposed residential use is consistent with the use and density requirements specified for the R-S (Suburban Residential) land use designation in the County General Plan.

The proposed single family dwelling and garage will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), in that the single family dwelling and garage will not adversely shade adjacent properties, and will meet current setbacks for the zone district with the exception of the front yard which abuts Day Valley Road.

The proposed single family dwelling and garage will be properly proportioned to the parcel size and the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes). The proposed single family dwelling and

garage will comply with the site standards for the RA zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity. Though the proposed garage will be 10 square feet over the maximum allowed 1,000 square feet for accessory structures located in the rural area as described in SCCC 13.10.611, the additional square footage is negligible and the structure will remain in character with the neighborhood.

A specific plan has not been adopted for this portion of the County.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the proposed single family dwelling and garage are to be constructed on an existing undeveloped lot. The expected level of traffic generated by the proposed project is anticipated to be only 1 peak trip per day (1 peak trip per dwelling unit), such an increase will not adversely impact existing roads or intersections in the surrounding area. Further, parcels in the vicinity are developed with single family dwellings therefore it is expected that utilities are readily available. A will-serve letter from Central Water District has been obtained.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the proposed structure is located in a mixed neighborhood containing a variety of architectural styles, and the proposed single family dwelling and garage are consistent with the land use intensity and density of the neighborhood.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed development is not subject to design review as described in SCCC 13.11.040.

Conditions of Approval

Exhibit D: Project Plans 17 sets, prepared by Richard Emigh dated 5/18/15

- I. This permit authorizes the construction of a 1,700 square foot single family dwelling and detached garage containing a ½ bathroom. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material sheet in 8 1/2" x 11" format for Planning Department review and approval.

3. Detailed Grading and drainage plan prepared by a licensed Civil Engineer
 4. Detailed erosion/sediment control plan.
 5. Details showing compliance with fire department requirements. If the proposed structure(s) are located within the State Responsibility Area (SRA) the requirements of the Wildland-Urban Interface code (WUI), California Building Code Chapter 7A, shall apply.
- B. Meet all requirements of and pay drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
- C. Meet all requirements and pay necessary fees to the County Department of Environmental Health Services.
- D. Meet all requirements and pay any applicable plan check fee of the Aptos LaSelva Fire Protection District.
- E. Submit Plan Review Letters from the project Geologist and Geotechnical Engineer.
- F. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
- G. Pay the current fees for Parks and Child Care mitigation for 2 bedroom(s). Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
- H. Pay the current fees for Roadside and Transportation improvements for 2 bedroom(s). Contact Department of Public Works for a current list of fees.
- I. Provide required off-street parking for 3 cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
- J. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- K. Complete and recorded maintenance agreement for the drainage retention system. A copy of the maintenance agreement form can be picked up from the Public Works office or found online at: http://www.dpw.co.santa-cruz.ca.us/Storm_Water/FigureSWM25A.pdf
- L. Complete and record a Declaration of Restriction to construct a 1,000 square foot detached two story garage containing a ½ bathroom. **You may not alter the wording of this declaration.** Follow the instructions to record and return the form to the Planning Department.

III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. The project must comply with all recommendations of the approved soils reports.
- D. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Wanda Williams
Deputy Zoning Administrator

Nathan MacBeth
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.