



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

*Promoting the wise use of land
Helping build great communities*

MEETING DATE: January 15, 2016 EFFECTIVE DATE: January 29, 2016	CONTACT/PHONE: Airlin M. Singewald (805) 781-5198 asingewald@co.slo.ca.us	APPLICANT: Jalal Vahabnezhad	FILE NO.: DRC2014-00142
SUBJECT A request by JALAL VAHABNEZHAD for a Minor Use Permit (DRC2014-00142) to modify the 250 foot maximum distance standard for a secondary dwelling to the primary residence pursuant to County Land Use Ordinance Section 22.30.470(F). This would allow the applicant to construct a new 2,400 square-foot single family residence approximately 350 feet away from an existing 687 square-foot residence, which would be converted to a secondary dwelling. The proposed project would result in approximately 2,400 square feet of site disturbance on an approximately 5 acre parcel. The proposed project is within the Residential Rural land use category and is located at 1055 Patricio Lane, approximately 630 feet south of Camino Caballo, approximately 1/2-mile west of the community of Nipomo. The site is in the South County Inland sub-area of the South County planning area.			
RECOMMENDED ACTION: Approve Minor Use Permit DRC2014-00142 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
ENVIRONMENTAL DETERMINATION: A Class 3 Categorical Exemption was issued on December 10, 2015 (ED15-156).			
LAND USE CATEGORY: Residential Rural	COMBINING DESIGNATION: None	ASSESSOR PARCEL NUMBER: 091-284-006	SUPERVISOR DISTRICT(S): 4
PLANNING AREA STANDARDS: Nipomo Mesa Water Conservation Area <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
LAND USE ORDINANCE STANDARDS: Section 22.06.030 – Table 2-2 Allowable Land Uses and Permit Requirements Section 22.10.060 – Exterior Lighting Section 22.10.090 (C) – Height Limits Section 22.10.130 – Residential Density Section 22.10.140 – Setbacks Section 22.30.470 – Residential Secondary Dwelling <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 th day following the administrative hearing, or on January 29, 2016, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
EXISTING USES: Single family residence (to be converted to secondary dwelling)			
SURROUNDING LAND USE CATEGORIES AND USES: North: Residential Rural / Single family residence East: Residential Rural / Single family residence South: Residential Rural / Single family residence West: Residential Rural / Single family residence			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Cal Fire, Building Division, South County Advisory Council	
TOPOGRAPHY: Nearly level to moderately sloping	VEGETATION: Oaks
PROPOSED SERVICES: Water supply: Shared well Sewage Disposal: Individual septic system Fire Protection: Cal Fire	ACCEPTANCE DATE: December 3, 2015

DISCUSSION

The project site is an approximately 5 acre Residential Rural parcel located ½-mile west of the Nipomo urban reserve line. The site is one of four parcels accessed from a cul-de-sac at the end of Patricio Lane. The parcel’s topography consists of a knoll on the north end of the parcel near the end of the cul-de-sac and then it slopes down to the south and levels off at the southern end, where an existing 687 square-foot residence is located.

The applicant is proposing to construct a new 2,400 square-foot single family residence on the parcel and to convert the existing 687 square-foot residence into a secondary dwelling unit. The proposed distance waiver would allow a new single family home to be constructed on the subject parcel at the end of the cul-de-sac (near the existing homes) approximately 351 feet north of the existing 687 square-foot home. The distance waiver would minimize grading and site disturbance since it would allow the new home to be constructed on a relatively level knoll, rather than on the sloping hillside to the south.

PLANNING AREA STANDARDS

Nipomo Mesa Water Conservation Area

Building Permits. Building permits issued for construction in the Nipomo Mesa Water Conservation Area shall comply with Section 19.07.042.

Staff Response: The proposed project complies with this standard because the construction drawings for the new residence will be reviewed for compliance with applicable sections of Title 19.

Landscape Standards. The standards in Chapter 22.16 apply to the following projects within the Nipomo Mesa Water Conservation Area (NMVCA). Only exceptions, as set forth in Subsection 22.16.020.B.2, 4, 6, and 7, are allowed within this area:

- d. Turf area limits.
 - 2. All other projects: The maximum amount of turf (lawn) area shall not exceed twenty percent of the site's total irrigated landscape area. In all cases, the site's total irrigated landscape area shall be limited to 1,500 square feet. The review authority may approve exceptions to this requirement in order to allow the minimum amount of irrigated landscaped or turf area needed for schools, parks and other uses that typically require larger irrigated landscape areas when the applicant can demonstrate the need for the additional irrigated landscaped area based on the characteristics of the use and the site.

Staff Response: The proposed project is conditioned to meet this standard. At the time of construction permit application, the applicant shall provide details on any proposed landscaping to the property, if applicable.

LAND USE ORDINANCE STANDARDS

Section 22.06.030 – Table 2-2 Allowable Land Uses and Permit Requirements

Residential secondary dwellings are allowed under Section 22.06.030 of the Land Use Ordinance on properties within the Residential Rural land use category.

Staff Response: The proposed development complies with this standard because it is an allowed use in the Residential Rural land use category.

Section 22.10.060 – Exterior Lighting

- A. *Illumination only.* Outdoor lighting shall be used for the purpose of illumination only, and shall not be designed for or used as an advertising display.
- B. *Light directed onto lot.* Light sources shall be designed and adjusted to direct light away from any road or street, and away from any dwelling outside the ownership of the applicant.
- C. *Minimization of light intensity.* No light or glare shall be transmitted or reflected in a concentration or intensity that is detrimental or harmful to persons, or that interferes with the use of surrounding properties or streets.
- D. *Light sources to be shielded.*
 - 1. Ground illuminated lights and elevated feature illumination.
- E. *Height of light fixtures.* Free-standing outdoor lighting fixtures shall not exceed the height of the tallest building on the site.

Staff Response: The proposed project is conditioned to meet this standard. At the time of construction permit application, the applicant shall provide details on any proposed exterior lighting, if applicable.

Section 22.10.090(C) – Height Limits

The maximum height for new structures within the Residential Rural land use category is 35 feet, except where other height limits are established by planning area standards of Chapter 22.09 (Community Planning Standards).

Staff Response: The proposed project complies with this standard because the new residence will be less than 35 feet tall.

Section 22.10.130(A)(2) - Residential Density

In land use categories where Section 22.06.030 (Allowable Land Uses and Permit Requirements) identifies single-family dwellings or mobile homes as permitted or conditional uses, the number of dwellings allowed on a single lot is as follows:

2. *Residential land use categories:* One for each legal parcel, except as follows:

d. *Secondary dwellings.* A secondary dwelling may be established in addition to the unit authorized by this Section, if allowed by Section 22.30.470 (Residential - Secondary Dwellings).

Staff Response: The property is within the Residential Rural land use category, which allows for one single family dwelling and one secondary dwelling. The proposed project would construct a new single family residence and convert an existing 687 square-foot residence into a secondary dwelling unit. Therefore, the proposed project complies with this standard.

Section 22.30.470 - Residential Secondary Dwellings

A second permanent dwelling may be allowed in addition to the first dwelling on a site, provided the site and the existing primary dwelling comply with all other applicable provisions of this Title.

The following describes the project's compliance with applicable subsections:

B. Limitations on use.

1. *Accessory unit only.* A secondary dwelling shall be accessory to a primary dwelling and shall not be established on any site containing a guesthouse (Section 22.30.410) or more than one dwelling unit, except where a guesthouse is proposed to be converted to a secondary unit in compliance with this Section.

Staff Response: The project complies with this standard. The site contains an existing residence, which will be converted to a secondary dwelling unit. The proposed single family home does not include a guesthouse.

2. *Occupancy of primary and secondary units restricted.* No secondary dwelling shall be approved in compliance with this Section unless an owner of the site agrees to occupy one unit on the site as his or her primary residence. Prior to final building inspection, the applicant for a second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the County in compliance with Chapter 22.10.

Staff Response: The project is conditioned to comply with this standard.

E. Minimum site area. A secondary dwelling may be allowed only on sites with the following minimum areas:

2. One acre (net) where on-site water supply and sewage disposal systems are proposed on an existing parcel, provided that all applicable requirements for separation between the existing septic system, new septic system for the secondary dwelling and any on-site and off-site water wells are satisfied, as well as all other applicable provisions of Title 19 of this Code for septic system design and performance.

Staff Response: The project complies with this standard. The property is approximately 5 acres, is served by a shared well, and has an existing septic system for the existing residence. The proposed residence will include a new septic system, located more than 350 feet from the existing residence and septic system. During building permit review, the proposed residence and septic system will be required to meet all applicable

provisions of Title 19 for septic system design and performance, which includes adequate separation between the existing and proposed septic systems and water wells.

F. Design Standards.

1. The following apply to all land use categories where secondary dwellings are allowed.

SIZE OF LOT	MAXIMUM SIZE OF UNIT(1)	TYPE OF ROAD SURFACE(2)	MAXIMUM DISTANCE FROM PRIMARY UNIT
6,000 sq. ft. - 1 acre	800 square feet	Paved	50 feet
> 1 acre - 2 acres	800 square feet	Chip seal(3)	50 feet
> 2 acres	1,200 square feet	Chip seal(3)	250 feet

Staff Response: The subject parcel is approximately 5 acres and is therefore allowed a secondary dwelling up to 1,200 square feet in size, subject to a 250-foot maximum separation requirement from the primary residence. The applicant is proposing to build a new house 351 feet away from the existing residence, which will be converted to a secondary dwelling. The existing 687 square-foot house is below the 1,200 square-foot size limitation. Locating the new home within 250 feet of the existing residence (as required by this section) would place the home on a hillside, which would require cutting into the hillside and additional site disturbance. The applicant is therefore seeking a modification to this distance requirement which will allow the new home to be constructed on a nearly level knoll near three existing homes at the end of the cul-de-sac. Virtually no grading would be required to construct the home in the proposed location.

2. **Driveways:** The driveways serving the primary and secondary dwelling shall be combined where possible.

Staff Response: The project complies with this standard. The existing driveway and cul-de-sac will serve both homes.

3. **Within urban and village reserve lines:**

- a. The secondary dwelling shall employ a design style compatible with the primary dwelling.
- b. No more than 50 percent of the site shall be covered by structures.

Staff Response: The proposed project is not located within an urban or village reserve line.

4. **Exceptions to design standards.** The maximum distance from the primary unit may be modified only where the Review Authority first finds the following:

- a. Locating the secondary dwelling within the distance as set forth in Subsection F.1. would necessitate the removal of, or impact to, any of the following:
 - i. Existing improvements, such as swimming pools, wastewater disposal fields, drainage facilities, or water storage tanks.

- ii. Sensitive or significant vegetation such as native trees or shrubs, riparian vegetation, vineyards, orchards, or visually prominent trees.
- iii. Significant topographic features (steep slopes, ridgelines, bluffs), water courses, wetlands, lakes or ponds, or rocky outcrops.
- iv. Archeological resources.

Staff Response: The applicant has applied for this minor use permit to waive the 250-foot maximum separation requirement between the primary and secondary dwellings. Staff supports the waiver because locating the proposed residence within 250 feet of the existing residence would necessitate impacts to steep slopes. Specifically, it would require the new home to be constructed on a slope necessitating cut/fill for the building pad. Conversely, the proposed building site (located 351 feet from the existing residence) is nearly level and will require virtually no grading.

5. **Parking.** A secondary dwelling shall be provided one off-street parking space per bedroom to a maximum of two spaces, in addition to those required for the primary residence per Chapter 22.18 (Required Parking Spaces - Residential Uses). The parking space shall be located, designed and constructed in compliance with Chapter 22.18.

Staff Response: The proposed project complies with this standard because the existing residence (to be converted to a secondary) has a two car garage and the proposed residence will have a three car garage.

COMMUNITY ADVISORY COUNCIL

This project was referred to the South County Advisory Council (SCAC) and the council supported the project on July 27, 2015.

AGENCY REVIEW

- Public Works- *Road fees and stormwater control plan required. See attached referral response (Tim Tomlinson; June 5, 2015).*
- Building Division – *Project shall comply with applicable building codes. See attached referral response (Mike Stoker; June 8, 2015).*
- Cal Fire –*The project is required to comply with all fire safety rules and regulations including the California Fire Code and the Public Resources Code. Cal Fire supports the request for a distance waiver. See attached fire safety plan (Travis Craig; June 22, 2015).*

LEGAL LOT STATUS

The one existing lot was legally created by a subdivision or deed at a time when that was a legal method of lot creation.

Staff report prepared by Airlin Singewald and reviewed by Karen Nall.