

**SANTA BARBARA COUNTY PLANNING COMMISSION**  
**Staff Report for Afifi and Noyes/Woodall Appeals of the Law New Residence**

**Hearing Date:** March 6, 2024  
**Staff Report Date:** February 27, 2024  
**Case Nos.:** 24APL-00001, 24APL-00002  
**Environmental Document:** CEQA Exemption

**Deputy Director:** Travis Seawards  
**Division:** Development Review  
**Supervising Planner:** Nicole Lieu  
**Supervising Planner Phone #:** 805-884-8068  
**Planner Contact:** Tatiana Cruz  
**Planner Contact Phone #:** 805-568-2082

**APPELLANT:**

Walid and Tamara Afifi  
2630 Montrose Pl.  
Santa Barbara, CA 93105  
805-679-1810

**APPELLANT:**

Ian and Mindy Noyes, Sena Woodall  
2634 Montrose Pl.  
Santa Barbara, CA 93105  
208-201-9735

**OWNER:**

Nancy and Stuart Law  
2668 Montrose Pl.  
Santa Barbara, CA  
805-845-3700

**AGENT/ APPLICANT:**

Jeff Shelton  
519 Fig Ave.  
Santa Barbara, CA  
805-708-2702



This site is identified at Assessor's Parcel Number 023-112-030, located at 2632 Montrose Place in the Mission Canyon Community Plan area, First Supervisorial District

## 1.0 REQUEST

Hearing on the request of Walid and Tamara Afifi, appellants, and Ian and Mindy Noyes, Sena Woodall, appellants, for the following:

- Case No. 24APL-00001, to consider the Afifi Appeal of the Law New Residence, in compliance with Chapter 35.102 of the County Land Use and Development Code, of the

Director's decision to approve Land Use Permit Case No. 21LUP-00000-00401, Law New Residence, on property located in the 7-R-1 Zone, for construction of a new 2,541 square foot single-family residence, 402 square foot attached garage, and 731 square feet of cantilevered decks in compliance with Land Use and Development Code Section 35.82.110;

- Case No. 24APL-00002, to consider the Noyes/Woodall Appeal of Law New Residence, in compliance with Chapter 35.102 of the County Land Use and Development Code, of the Director's decision to approve Land Use Permit Case No. 21LUP-00000-00401, Law New Residence, on property located in the 7-R-1 Zone, for construction of a new 2,541 square foot single-family residence, 402 square foot attached garage, and 731 square feet of cantilevered decks in compliance with Land Use and Development Code Section 35.82.110; and,
- Determine the project is exempt from CEQA pursuant to State CEQA Guidelines Section 15303, as set forth in the attached Notice of Exemption, included as Attachment C.

The application involves Assessor Parcel No. (APN) 023-112-030, zoned 7-R-1, located at 2632 Montrose Place, Santa Barbara, CA, in the Mission Canyon area, First Supervisorial District.

## **2.0 RECOMMENDATION AND PROCEDURES**

Your Commission's motion should include the following:

1. Deny the appeals, Case Nos. 24APL-00001 and 24APL-00002.
2. Make the required findings for approval of the project, Case No. 21LUP-00000-00401, specified in Attachment A of this staff report, including CEQA findings.
3. Determine the project is exempt from CEQA pursuant to State CEQA Guidelines Section 15303, as set forth in the attached Notice of Exemption, included as Attachment C.
4. Approve the project, Case No. 21LUP-00000-00401, subject to the conditions of approval included as Attachment B.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

## **3.0 JURISDICTION**

This project is an Appeal of Case No. 21LUP-00000-00401 pursuant to Chapter 35.102 of the County Land Use & Development Code.

This project is being considered by the County Planning Commission based on Section 35.102.040 of County Land Use and Development Code which states that “any decision of the Director to approve or deny and application for a Land Use Permit” may be appealed to the Planning Commission.

A Land Use Permit is required for construction of a residence and accessory structures in the R-1 (Single Family Residential) Zone District pursuant to Section 35.20.030.B of the County LUDC, which states:

- *The allowable land use tables within Chapters 35.21 through 35.26 provide for land uses that are:*
  - a. *Permitted subject to compliance with all applicable provisions of this Development Code, subject to first obtaining a Land Use Permit (Section 35.82.110). These are shown as "P" uses in the tables;*

The project, Case No. 21LUP-00000-00401, approved a new residence and attached garage, both of which are listed as allowable residential structures and uses in the R-1 Zone, and therefore require a Land Use Permit.

#### **4.0 ISSUE SUMMARY**

The project is an Appeal (Case Nos.: 24APL-00001 and 24APL-00002) of the Director’s approval of Case No. 21LUP-00000-00401 for construction of a new single family residence and attached garage. The project consists of the construction of a 2,541 square foot single-family residence with an attached 402 square foot garage and 731 square feet of cantilevered decks on a vacant lot in the Mission Canyon area. The project was approved by the Director on December 20, 2023, received preliminary South Board of Architectural Review (SBAR) approval on August 11, 2023, and final SBAR approval on December 15, 2023. No appeals of the SBAR approvals were filed.

On January 2, 2024, Walid and Tamara Afifi, appellants, filed a timely appeal (Case No. 24APL-00001, Attachment D) of the Director’s approval of the Land Use Permit (LUP). Also on January 2, 2024, Mindy and Ian Noyes and Sena Woodall, appellants, filed a timely appeal (Case No. 24APL-00002, Attachment E) of the Director’s approval of the LUP. Appeal issues raised in each of the appeals focus on concerns related to views, privacy, drainage, site constraints, and neighborhood compatibility. Staff’s response to the appeal issues is included in Section 6.1, below.

As proposed, the project is consistent with all applicable ordinance and policy requirements including those for adequate services, aesthetics, geology, cultural resources, hillside and watershed protection, and noise, and with the purpose and intent, setbacks, parking, and height limit requirements of the R-1 Zone District.

## 5.0 PROJECT INFORMATION

### 5.1 Site Information

Site Information	
Comprehensive Plan Designation	Urban, Single Family Residential, RES-4.6
Ordinance, Zone	Land Use and Development Code, 7-R-1 Zone District, 7,000 square foot net minimum lot size, High Fire Hazard Overlay
Site Size	0.22-acre parcel
Present Use & Development	Vacant Lot
Surrounding Uses/Zone(s)	North: Residential, E-1 South: Residential, R-1 East: Residential, R-1 West: Residential, R-1
Access	Montrose Place, existing paved road
Public Services	Water Supply: City of Santa Barbara Water District Sewage: Mission Canyon Sewer District Fire: Santa Barbara County Fire Police Services: County Sheriff

### 5.2 Project Description

The project is a request for a Land Use Permit to allow construction of a new 2,541 square foot single-family residence, 402 square foot attached garage, and 731 square feet of cantilevered decks. Associated landscaping and hardscaping are proposed. The parcel is currently vacant. The project will require approximately 450 cubic yards of cut and approximately 80 cubic yards of fill. A total of 6 non-native trees are proposed for removal. Two existing Oak trees will be protected in place. The parcel will be served by the City of Santa Barbara Water District, the Mission Canyon Sewer District, and the Santa Barbara County Fire Protection District. Access will continue to be provided off Montrose Place. The property is a 0.22-acre parcel zoned 7-R-1 and shown as Assessor's Parcel Number 023-112-030, located at 2632 Montrose Place in the Mission Canyon Community Plan Area, First Supervisorial District.

## 6.0 PROJECT ANALYSIS

### 6.1 Appeal Issues

The appellants, Walid and Tamara Afifi, identified 10 appeal issues described in their Appeal Application letter (Attachment D). The appellants, Ian and Mindy Noyes and Sena Woodall, identified 8 appeal issues described in their Appeal Application letter (Attachment E). Each appeal issue is listed below, followed by a response from staff.

## **Case No. 24APL-00001 (Afifi) Appeal Issues and Responses**

**Appeal Issue #1:** The appellant asserts that the proposed development is too big for the portion of lot they are allowed to build on.

**Staff Response to Issue #1:** The proposed development has been designed appropriately for the subject lot, meets all applicable zoning development standards, and the property is not subject to square footage restrictions. Further, the proposed development is not subject to Floor Area Ratio (FAR) requirements, a building envelope restriction, or ordinance requirements limiting square footage. The proposed residence is similar in mass, bulk, and scale to other homes in the surrounding neighborhood and has been constructed on the least sloped portion of the lot. Existing homes along Montrose Place range from 1,233 square feet to 3,387 square feet in size, with adjacent homes being 3,236 square feet and 3,387 square feet in size. The project proposes a 2,541-square-foot residence and is therefore within the range of similar residences in the existing community. The proposed 402 square foot attached garage is just large enough to accommodate two required parking spaces. In addition, the Board of Architectural Review (BAR) commented that the “size, bulk, scale, architectural style and exterior materials [are] appropriate for the site and the neighborhood,” and SBAR gave final approval on December 15, 2023. SBAR’s design review approval for the project was not appealed. Please refer to Attachment F for compiled BAR minutes.

**Appeal Issue #2:** The appellant asserts that the proposed development is significantly closer to their property located at 2630 Montrose Place than any other property in the neighborhood compared to adjacent homes.

**Staff Response to Issue #2:** The proposed project meets applicable setbacks as discussed in Section 6.4 of this Staff Report, and ordinance provisions do not dictate that proposed development be located equidistant from neighboring homes.

**Appeal Issue #3:** The appellant asserts that the proposed development violates their privacy because the proposed residence outdoor patio deck faces a bedroom at 2630 Montrose Place.

**Staff Response to Issue #3:** The proposed development meets applicable setback provisions as discussed in Section 6.4 of this Staff Report, and ordinance provisions do not dictate deck placement. However, the deck is oriented in a northwest direction, with primary views facing away from 2630 Montrose. This orientation and the primary view area is shown on sheet A1.5.1 of the approved project plans (Attachment I), demonstrating that the project was designed with consideration of neighbors’ privacy.

**Appeal Issue #4:** The appellant asserts that the proposed development impacts the view from their bedrooms in the property located at 2630 Montrose Place.

**Staff Response to Issue #4:** Private views are not protected by applicable ordinance policies. However, as shown on sheet A3.0 of the approved project plans (Attachment I) the number and size of windows on the east side of the proposed residence has been limited in consideration of the neighbor's privacy. In addition, the windows have been placed in consideration of privacy for both the applicant and neighbor.

**Appeal Issue #5:** The appellant asserts that the proposed development is located on a narrow street with difficult fire truck access and that construction "blockage" is a concern.

**Staff Response to Issue #5:** Adequate access to the site exists for fire protection purposes, and conditions of approval require on-site construction parking and designation of an on-site construction storage area. Santa Barbara County Fire reviewed and approved the proposed project plans on October 18, 2023. Conditions No. 10 and 11 of Attachment B require on-site construction parking and storage.

**Appeal Issue #6:** The appellant asserts that the proposed development is located on a parcel that was retired due to poor drainage and poor soil.

**Staff Response to Issue #6:** The proposed development is located on a parcel that is a legal lot as described in a Certificate of Compliance dated May 26, 1989, and is zoned for single-family residential use (R-1). In referring to the parcel as "retired" the appellant may be referring to the fact that the subject parcel was previously assigned another Assessor's Parcel Number (APN). The appellant's property at 2630 Montrose Place and the subject property at 2632 Montrose Place were previously assigned a shared APN 123-122-022. The subject property changed parcel numbers due to Santa Barbara County Assessor's administrative action that replaced APN 023-122-022 and assigned new APNs 023-112-030 (the subject property) and 023-112-029 (2630 Montrose) after the property owner at the time split their lot into two 0.22-acre parcels. APNs are not changed based on site drainage or soil quality, and a change in a parcel's APN does not affect the ability to develop the parcel subject to applicable zoning requirements.

**Appeal Issue #7:** The appellant asserts that the applicant initially planned to build a smaller home and questions why it is ok to build a larger home closer to the appellant's property.

**Staff Response to Issue #7:** As discussed in Appeal Issue 1, above, and in Section 6.3 and Section 6.4 of this staff report, below, the proposed project complies with the R-1 Zone District setback requirements, the property is not subject to Floor Area Ratio (FAR) requirements, a building envelope restriction, or ordinance requirements limiting square footage, and the proposed development is compatible with the size of neighboring homes, including the appellants' home.

**Appeal Issue #8:** The appellant asserts that an analysis showed the proposed project encroaching 15 feet onto the appellant's property and indicates that they have not received a proposal for compensation for the loss of a fence and vegetation.

**Staff Response to Issue #8:** The approved project plans do not show the proposed development encroaching onto the neighboring property. Plans submitted for the proposed project include a site survey (Sheet A1.1 of Attachment I) delineating the parcel boundaries. The site plan for the project (Sheet A1.0 of Attachment I), prepared by a licensed architect, shows all proposed development within the parcel boundaries and in compliance with applicable setback requirements. Any dispute between the adjacent property owners regarding the existing improvements on the Applicant's property is a private matter.

**Appeal Issue #9:** The appellant questions what the plan is for irrigation that will protect their property.

**Staff Response to Issue #9:** The appellant has not provided evidence to indicate that irrigation of the subject property would result in damage to their property. As shown on the project landscape plans (Attachment I), the proposed landscaping and irrigation is located entirely within the applicant's legal property boundaries.

**Appeal Issue #10:** The appellant questions how they will be guaranteed privacy.

**Staff Response to Issue #10:** As discussed in Appeal Issues 1, 2, 3, and 4, above, and incorporated herein by reference, while private views are not protected, the project complies with setback requirements and the project architect has oriented and designed the proposed residence and garage with consideration given to neighbor privacy. While not required by any applicable policy, the project architect prepared neighbor view studies to address privacy concerns and incorporated the view study into the project plans (Sheet A1.5 & A1.5.1 of Attachment I). The number, size, and placement of windows and the orientation of the deck have been designed in consideration of the neighbor's privacy. In addition, in their final project approval, the Board of Architectural Review (BAR) commented, "Good project - all issues have been addressed," and "additional screening is adequate. Plant palette is acceptable." BAR gave final approval on December 15, 2023.

#### **Case No. 24APL-00000-00002 (Noyes/Woodall) Appeal Issues and Responses**

**Appeal Issue #11:** The appellant asserts that the proposed development is inconsistent with the previously approved discretionary permit.

**Staff Response to Issue #11:** The subject property is a vacant lot and the Land Use Permit application is not related to any previously approved discretionary permit for the property, nor has the appellant submitted information to support this claim.

**Appeal Issue #12:** The appellant asserts that the proposed development is at variance with the provisions and purposes of the County’s Zoning Ordinances and the Mission Canyon Community Plan.

**Staff Response to Issue #12:** The proposed development is consistent with all applicable provisions of the County Land Use and Development Code and with the Comprehensive Plan, including the Mission Canyon Community Plan. The projects compliance with these requirements is discussed in detail in Sections 6.3 and 6.4 of the staff report, and incorporated herein by reference.

**Appeal Issue #13:** The appellant asserts that the proposed development is located on a steep sloped lot within the Mission Canyon Special Problems Area and therefore excavation will compromise the geologic stability of the hillside and neighboring properties.

**Staff Response to Issue #13:** The proposed development has been located on the least steep slopes of the site and will be constructed in conformance with the requirements of a Soils Engineering Report and the California Building Code. As required for properties located within the Mission Canyon Special Problems Area, the project was reviewed by the Special Problems Area Committee (SPC) and will be constructed in compliance with all requirements of the SPC Committee Members, including Santa Barbara County Building and Safety and Santa Barbara County Fire.

The project architect worked closely with the Board of Architectural Review and Planning and Development staff to identify the least sloped, and most appropriate, portion of the site to construct the residence and garage. Sheet A1.3 of the project plans that were approved on December 20, 2023, (Attachment I) provides a slope study of the site and the red outline (denoting lesser slopes) on Sheet A1.5.1 overlaid on the site plan shows that the proposed development has been located on the least sloped portions of the site, which is also required pursuant to DevStd GEO-MC-1.1. A Soils Engineering Report prepared by GeoSolutions, Inc. dated January 28, 2021, concludes that the site is “suitable for the proposed development” and provides specific recommendations for construction in order to ensure geologic stability. In addition, engineered plans for the project will be reviewed for conformance with the California Building Code and the Chapter 14 Grading Code. The project was reviewed by the Special Problems Area Committee on August 3, 2023, and will be constructed in compliance with the requirements of the SPC Committee, including implementation of a Stormwater Control Plan, Fire Department Approval, receipt of water and sewer service letters, receipt of Building and Grading Permits, and payment of Development Impact Mitigation Fees.

**Appeal Issue #14:** The appellant asserts that the proposed development does not have plans to address storm water runoff, erosion, and drainage.



**Staff Response to Issue #14:** Contrary to the appellant's assertion, the proposed project is required to comply with a Stormwater Management Plan and conditions of approval designed to address both long and short-term storm water runoff, erosion, and drainage. A Tier 1 Stormwater Control Plan (Ashley Vance Engineering, July 27, 2023) was prepared for the proposed project and requires implementation of measures to reduce storm water runoff. Conditions No. 8 and 12 of Attachment B require preparation of an Erosion and Sediment Control Plan and designation of a Construction Washout area.

**Appeal Issue #15:** The appellant asserts that the proposed development increases fire hazard to neighboring structures.

**Staff Response to Issue #15:** The appellant has provided no evidence to support the assertion that the proposed development would increase fire hazards to neighboring structures. Further, the Santa Barbara County Fire District approved the project plans on October 18, 2023. In addition, the development will be required to comply with Santa Barbara County Fire and California Building Code requirements for fire sprinklers, fire resistant construction materials, access, water availability, defensible space, and obtaining Building permits and Fire Protection Certification.

**Appeal Issue #16:** The appellant asserts that the proposed development did not have a fair and impartial hearing about the height variance approved by the Board of Architectural Review and its impact on the natural light and view corridors.

**Staff Response to Issue #16:** No appeal of the Board of Architectural Review (BAR) approval was filed and therefore the decisions of the BAR are outside the scope of this appeal. Furthermore, public comment was received at each of the four BAR meetings, including from the appellants, as documented in the compiled BAR minutes (Attachment F).

**Appeal Issue #17:** The appellant asserts that they are not aware of specific plans to address the potential hazards of construction on this type of slope and soil and questions how the proposed development would aim to mitigate, avoid, and minimize the adverse effects on the integrity of adjacent properties.

**Staff Response to Issue #17:** The project will be constructed in conformance with a special study addressing soils/geologic stability and conditions of approval have been applied to address temporary construction impacts. The project will be constructed in compliance with a Soils Engineering Report prepared by GeoSolutions, Inc., January 28, 2021, which concludes that the site is "suitable for the proposed development" and provides specific recommendations for construction in order to ensure geologic stability. In addition, engineered plans for the project will be reviewed for conformance with the California Building Code and the Chapter 14 Grading Code. The project was reviewed by the Special Problems Area Committee on August 3, 2023, and will be constructed in compliance with the requirements of the Committee, including

implementation of a Stormwater Control Plan, Fire Department Approval, receipt of water and sewer service letters, receipt of Building and Grading Permits, and payment of Development Impact Mitigation Fees. Finally, temporary construction impacts due to soil disturbance will be addressed by Conditions No. 8 and 12 of Attachment B, which requires preparation of an Erosion and Sediment Control Plan and designation of a Construction Washout area.

**Appeal Issue #18:** The appellant asserts they anticipate a traffic congestion issue due to another home being constructed in a residential neighborhood.

**Staff Response to Issue #18:** Adequate access to the site exists via Montrose Place, a public road, and conditions of approval require on-site construction parking and designation of an on-site construction storage area. Santa Barbara County Fire reviewed and approved the proposed project plans on October 18, 2023. Conditions No. 10 and 11 of Attachment B require on-site construction parking and storage.

## 6.2 Environmental Review

The Project was evaluated for compliance with the California Environmental Quality Act (CEQA) and determined to be exempt from environmental review pursuant to State CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures], which exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures such as: (a) One single-family residence; (b) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction, and; (c) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The project is a single-family residence and a garage and is therefore exempt under State CEQA Guidelines Section 15303. Please see Attachment C, Notice of Exemption, for further detail.

## 6.3 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
<b>ADEQUATE SERVICES</b>	
<p><b><i>Land Use Element Development Policy 4:</i></b> <i>Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for</i></p>	<p><b>Consistent.</b> The proposed project is consistent with the policy requirement to have adequate services available to serve the proposed development because the parcel will be served by the City of Santa Barbara Water District and Mission Canyon Sewer District as documented by the respective water and sewer availability letters dated October 31, 2023, and October 30 2023 (Attachment H), indicating capacity to</p>

<p><i>costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.</i></p> <p><b>Land Use Development Policy 5:</b> <i>Within designated urban areas, new development other than that for agricultural purposes shall be serviced by the appropriate public sewer and water district or an existing mutual water company, if such service is available.</i></p> <p><b>Mission Canyon Community Plan Policy LU-MC-2:</b> <i>The County shall recognize that the Mission Canyon Plan Area is a constrained community with respect to fire hazard, parking and circulation, flooding and drainage, wastewater and geology, and hillsides and topography and shall require that future development is adequately served by existing services and infrastructure.</i></p>	<p>serve the proposed development. Fire protection will be provided by the Santa Barbara County Fire District. The project plans were reviewed and approved by Santa Barbara County Fire Department on October 18, 2023. Access will continue to be provided via an existing road, Montrose Place.</p>
<p><b>AESTHETICS/VISUAL RESOURCES</b></p>	
<p><b>Land Use Element Visual Resource Policy 2:</b> <i>In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.</i></p> <p><b>Mission Canyon Community Plan Policy VIS-MC-4:</b> <i>Development shall be sited, designed, and scaled to be compatible with neighborhood character, to protect visual resources, and to respect site constraints such as steep slopes.</i></p>	<p><b>Consistent.</b> The proposed project is consistent with the policy requirement to be in conformance with the scale and character of the existing community and to respect site constraints. The property is located within a designated urban area zoned Single Family Residential (R-1), where the existing community is developed with similar single family residences and accessory structures including garages, decks, carports, and patios.</p> <p>Existing homes along Montrose Place range from 1,274 square feet to 3,387 square feet, with adjacent homes being 3,236 square feet and 3,387 square feet in size. The project</p>

	<p>proposes a 2,541 square foot residence and is therefore within the range of similar residences in the existing community.</p> <p>In order to respect site constraints, the project has been located on the least sloped, and most appropriate, portion of the Sheet A1.3 of the project plans that were approved on December 20, 2023, (Attachment I) provides a slope study of the site and the red outline (denoting lesser slopes) on Sheet A1.5.1 overlaid on the site plan shows that the proposed development has been located on the least sloped portions of the site.</p> <p>In addition, the Board of Architectural Review (BAR) commented that the “size, bulk, scale, architectural style and exterior materials appropriate for the site and the neighborhood.” Please refer to Attachment F for compiled BAR minutes.</p>
<b>CULTURAL RESOURCES</b>	
<p><b>Land Use Element Historical and Archaeological Sites Policy 2:</b> <i>When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.</i></p> <p><b>Mission Canyon Community Plan Policy HA-MC-1:</b> <i>Archaeological resources shall be protected and preserved to the maximum extent feasible.</i></p>	<p><b>Consistent.</b> The proposed project is consistent with the policy requirement to avoid impacts to cultural sites because there are currently no known archaeological or cultural sites mapped on or within 1,000 feet of the subject parcel, as documented in the project initial archaeological records search dated October 1, 2021. In addition, Condition No. 6 of Attachment B requires a stop work and assessment of resources in the unexpected event that an archaeological or cultural resource is found.</p>
<b>GEOLOGIC PROCESSES/TOPOGRAPHY</b>	
<p><b>Mission Canyon Community Plan DevStd GEO-MC-1.1:</b> <i>Development, including grading, shall be prohibited on natural and man-made slopes greater than 30%. In areas of unstable and/or</i></p>	<p><b>Consistent.</b> The proposed project is consistent with the policy requirement to avoid slopes of 30%, minimize development on slopes over 20%, and to require site-specific geologic</p>

*highly erosive soils, on sites that are on or adjacent to faults, landslides, or other geologic hazards, or in any case where development is proposed in areas where the slope is 20% or greater, the County shall require site-specific geologic and/or geotechnical investigation(s) by a qualified professional (e.g., professional geologist, geotechnical engineer, engineering geologist). Where applicable, measures recommended to avoid or mitigate geologic hazards shall be incorporated into the proposed development in a manner that avoids or minimizes any potential adverse effects of such measures (for example, hillside scarring). Potential subdivisions shall demonstrate all areas for feasible building sites and access on less than 20% slopes.*

**Mission Canyon Community Plan DevStd GEO-MC-1.2:** *In order to minimize erosion, landscape plans shall be required for development on slopes 20% or greater and for any project requiring a grading permit. Such plans shall include revegetation of graded areas with appropriate firewise planting designed to blend with the natural terrain and stabilize slopes. Landscape plans will be subject to review and approval by the Board of Architectural Review.*

**Mission Canyon Community Plan Policy GEO-MC-4:** *Development shall be sited and designed to minimize the potential for geologic hazards, including but not limited to, seismic, soil, or slope hazards.*

investigation, while allowing reasonable development of the site.

The majority of the site contains slopes of over 20%, with slopes reaching over 40%. As a legal lot zoned for residential development (R-1), these site constraints cannot be used to prevent reasonable development of the property, but the County may require compliance with applicable policies to the maximum extent feasible. The proposed project is located on the least sloped area of the lot. Sheet A1.3 of the approved project plans (Attachment I) provides a slope study of the site and the red outline (denoting lesser slopes) on Sheet A1.5.1 overlaid on the site plan clearly shows that the proposed development has been located on the least sloped portions of the site.

A Soils Engineering Report prepared by GeoSolutions, January 28, 2021, concludes that the site is “suitable for the proposed development” and provides specific recommendations for construction in order to ensure geologic stability. The proposed project includes incorporation of these recommendations in order to avoid adverse geologic and slope hazards. In addition, engineered plans for the project will be reviewed for conformance with the California Building Code and the Chapter 14 Grading Code during the Building and Grading Permit review process. Finally, temporary construction impacts due to soil disturbance will be addressed by Conditions No. 8 and 12 of Attachment B, which requires preparation of an Erosion and Sediment Control Plan and designation of a Construction Washout area.

**HILLSIDE AND WATERSHED PROTECTION**

<p><b>Land Use Element Hillside and Watershed Protection Policy 1:</b> <i>Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.</i></p> <p><b>Land Use Element Hillside and Watershed Protection Policy 2:</b> <i>All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site, which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.</i></p> <p><b>Mission Canyon Community Plan Policy GEO-MC-3:</b> <i>Excessive grading for the purpose of creating or enhancing views shall not be permitted. Grading should not place more than five feet of fill above natural grade.</i></p>	<p><b>Consistent.</b> The proposed project is consistent with the policy requirement to minimize cut and fill operations and preserve the natural terrain, existing site topography, and is oriented so that grading and site preparation is kept to a minimum. Proposed grading is limited to 450 cubic yards of cut and 80 cubic yards of fill. In compliance with Mission Canyon Community Plan Policy GEO-MC-3 the project does not propose fill of more than five feet in depth and no grading is proposed for the purpose of creating or enhancing views.</p> <p>The proposed development has been designed to fit the topography of the site and has been placed on the least sloped portion of the site. Sheet A1.3 of the approved project plans (Attachment I) provides a slope analysis of the site and the red outline (denoting lesser slopes) on Sheet A1.5.1 overlaid on the site plan clearly shows that the proposed development is located within the least sloped portions of the site. The project is consistent with the policy requirement for preservation of natural slope and landforms because the project does not propose alteration of natural landforms and the project has been designed to preserve existing native Oak trees on the property.</p>
<b>NOISE</b>	
<p><b>Noise Element Policy 1:</b> <i>In the planning of land use, 65dB Day-Night Average Sound Level should be regarded as the maximum exterior noise exposure compatible with noise-sensitive uses unless noise mitigation features are included in the project design.</i></p> <p><b>Mission Canyon Community Plan Policy LU-MC-4:</b> <i>The public shall be protected from continuous noise that could jeopardize health and welfare.</i></p>	<p><b>Consistent.</b> The proposed project is consistent with policy requirements to limit noise exposure because the proposed single family dwelling and garage is not expected to generate greater than 65dB sound level. Single-family residences and garages are generally regarded as structures that generate ambient noise levels no greater than 45dB. Temporary construction noise will be mitigated by requiring construction activities to be conducted only between the hours of 7:00 AM</p>

	and 4:00pm Monday through Friday, and this restriction is incorporated herein by reference as Condition No. 9, Noise-02 Construction Hours, of the project Conditions of Approval included as Attachment B.
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## 6.4 Zoning: Land Use and Development Code Compliance

### Section 35.23.020 Purpose of the Residential Zones

*R-1/E-1 (Single Family Residential) Zone. The R-1 and E-1 zones are applied to areas appropriately located for one-family living at a reasonable range of population densities, consistent with sound standards of public health, safety, and welfare. This zone is intended to protect the residential characteristics of an area and to promote a suitable environment for family life.*

**Consistent:** The proposed project is consistent with the purpose and intent of the R-1 (single Family Residential) Zone District. As discussed in Section 6.3, above, the project consists of the construction of a single-family residence and attached garage, and the project will be constructed consistent with sound standards of public health, safety and welfare including the California Building Code, and the recommendations of the Special Problems Area Committee.

### Section 35.20.020.B Permit and Approval Requirements

*Any planning permit or other approval required by Section 35.20.030 (Allowable Development and Planning Permit Requirements) shall be obtained before the issuance of any grading, building, or other construction permit, and before commencing any work pertaining to any development or use or using any land or structure, unless such structure or use is listed in Section 35.20.040 (Exemptions from Planning Permit Requirements).*

### Section 35.23.030.A and Table 2-7 Allowed Land Uses and Permit Requirements

*Tables 2-7 (Allowed Land Uses and Permit Requirements for Residential Zones) identifies that within the R-1 zone a Land Use Permit is required for a one-family dwelling, which may include accessory structures and uses that are customarily incidental to the primary use.*

**Consistent.** The project is consistent with the requirement for a Land Use Permit pursuant to Section 35.20.030 and Chapter 35.42 of the County LUDC. Table 2-7 identifies one-family dwellings and accessory structures as an allowed residential use requiring a Land Use Permit. The project is for construction of a residence, attached garage, and cantilevered decks, and is located in the R-1 (Single Family Residential) Zone District.

### **Section 35.23.050 Table 2-10 R-1/E-1 Single Family Residential Zone Setbacks**

*Front: 50 ft. from road centerline, 20 ft from right-of-way [prior to sloping lot setback reduction described below] and 40 feet from road centerline for a residence and attached garage in compliance with sloping lot setback exception.*

*Side: 10% of lot width; except where zoned for minimum lot area of 2 acres or less – 5ft. minimum, 10 ft. maximum required.*

*Rear: 25 ft.*

### **Section 35.30.150 Setback Requirements and Exceptions**

*Sloping lot setback: Where the elevation of the ground at a point 50 feet from the centerline of any street is seven feet or more below or above the grade of the centerline, the front setback for a private detached garage (not carport) may be decreased by 40 percent and the front setback for a dwelling may be decreased by 20 percent, provided that the front face of the garage is no closer than 10 feet to the abutting street right-of-way.*

**Consistent:** The proposed project is consistent with the setback requirements and exceptions for buildings and structures in the R-1 (Single Family Residential) Zone District. The elevation of the ground at a point 50 feet from the centerline of Montrose Place is seven feet or more below the grade of the centerline; therefore, the required front setback is 40 feet from the road centerline, which is no more than a 20% reduction to the 50-foot R-1 Zone District setback. The proposed residence and attached garage will be set back at least 40 feet from the road centerline and 20 feet from the road right of way, and at least 8 feet-8 and 3/8 inches, which is 10% of the lot width, from both side lots lines, and over 25 feet from the rear lot line. The front face of the proposed garage is no closer than 20 feet to the abutting street right-of-way.

### **Section 35.23.050 Table 2-10 R-1/E-1 Single Family Residential Zone Height Limit**

*Height: 35 feet*

### **Section 35.62.040.B2 and C Ridgeline and Hillside Development Guidelines**

#### **C. Development Guidelines.**

*Height: 25 feet wherever there is a 16-foot drop in elevation within 100 feet of the proposed structure's location.*

*Aesthetics: Proposed structures should be in character with adjacent structures. Large understories and exposed retaining walls should be minimized. Landscaping should be compatible with the character of the surroundings and the architectural style of the structure.*

*Location on lot: Development on ridgelines shall be discouraged if suitable alternative locations are available on the lot.*



**B2. Exemptions allowed by Board of Architectural Review.** *The Board of Architectural Review may exempt a new structure from compliance with the Ridgeline and Hillside Development guidelines, in compliance with Section 35.82.070 (Design Review) provided that in their review of the structure they make one or more of the following findings:*

*a. Due to unusual circumstances, strict adherence to these guidelines would inordinately restrict the building footprint or height below the average enjoyed by the neighborhood. For example, significant existing vegetation, lot configuration, topography or unusual geologic features may necessitate exceeding the height limit in order to build a dwelling comparable to other structures in the neighborhood.*

*b. In certain circumstances, allowing greater flexibility in the guidelines will better serve the interests of good design without negatively affecting neighborhood compatibility or the surrounding viewshed.*

**Consistent.** The project is consistent with the 35 foot R-1 (Single Family Residential) zone height limit and with the provisions allowing for an exemption from the Hillside Ridgeline height limit of 25 feet. The proposed residence and attached garage will be a maximum of 35 feet tall. On August 11, 2023, the SBAR reviewed the project plans for preliminary approval and adopted the required findings to exempt the proposed structures from the hillside-ridgeline development guidelines regarding height (Attachment F) stating, “SBAR can make the findings (§35.62.040.B.2 and §35.36.080 - LUDC) that given the site topography, lot configuration and existing vegetation, it is in the interest of better design to allow the height increase to 35 feet and proposed parking configuration. The height and parking configuration exceptions will not negatively affect the surrounding viewshed or neighborhood compatibility.” SBAR gave final approval on December 15, 2023. SBAR’s design review approval for the project was not appealed.

### **Section 35.36.050 Required Number of Spaces: Residential Uses**

*Table 3-5 – Residential Parking Standards*

*A minimum of 3 parking spaces shall be required for one new single family dwelling in the R-1 Zone District within the Mission Canyon Community Plan area.*

### **Section 35.36.080.B and 35.36.080.H and M Parking Standards**

*Within the Mission Canyon Community Plan area , one of the 3 required parking spaces associated with the principal dwelling on a lot zoned R-1/E-1 shall be provided as uncovered parking paved with pervious materials on a suitable base unless inconsistent with Fire Department minimum structural design standards for emergency access.*

*Within the Mission Canyon Community Plan area, one of the three required parking spaces associated with the principal dwelling on a lot zoned R-1\E-1 may be located within the front setback area provided the location is approved by the Board of Architectural Review in compliance with Section 35.82.070 (Design Review).*

**Size.** *Parking space sizes shall comply with the following standards:*

1. *Residential parking spaces shall be a minimum of 8.5 feet wide by 16.5 feet long*

**Consistent.** The project is consistent with applicable parking standards and requirements pertaining to quantity, size, design, and location. Two parking spaces will be located in the proposed attached 2-car garage and a third uncovered parking space will be provided next to the driveway. The project is consistent with the requirement for minimum parking space size because the three parking spaces will have a dimension of 8.5 feet wide by 16.5 feet long. On August 11, 2023, the SBAR reviewed the project for preliminary approval and made the required findings to allow the one uncovered parking space to be located within the required 40-foot front setback (Attachment F) in compliance with Section 35.82.070 (Design Review). SBAR gave final approval on December 15, 2023. SBAR's design review approval for the project was not appealed.

## **6.5 Design Review**

The project was reviewed by the South Board of Architectural Review (SBAR) on October 15, 2021, for conceptual review, August 26, 2022, for further conceptual review and site visit with story poles, August 11, 2023, for preliminary approval, and lastly on December 15, 2023, for final approval. The SBAR reviews projects and considers the contents of the Mission Canyon Residential Design Guidelines in their assessment of proposed projects, in addition to making the findings required of all Design Review applications (Section 35.82.070.F.1) and for Design Review applications in the Mission Canyon Community Plan Area (Section 35.82.070.F.6). At preliminary approval, the SBAR made findings pursuant to LUDC Section 35.62.040.B2 and Section 35.82.070 to allow the proposed structures to be 35 feet tall, and for one uncovered parking space to be located within the front setback stating, "SBAR can make the findings (§35.62.040.B.2 and §35.36.080 - LUDC) that given the site topography, lot configuration and existing vegetation, it is in the interest of better design to allow the height increase to 35 feet and proposed parking configuration. The height and parking configuration exceptions will not negatively affect the surrounding viewshed or neighborhood compatibility." At the December 15, 2023, final approval, the BAR stated, "good project - all issues have been addressed," and "additional screening is adequate." SBAR's design review approval for the project was not appealed. Compiled SBAR minutes are included as Attachment F.

## **7.0 APPEALS PROCEDURE**

The action of the Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of said action. The appeal fee to the Board of Supervisors is \$709.06.

## **ATTACHMENTS**

- A. Findings
- B. Conditions of Approval

- C. Exemption
- D. Appeal Letter –Afifi
- E. Appeal Letter –Noyes/Woodall
- F. BAR Minutes
- G. SPC Minutes
- H. Water and Sewer Availability letters
- I. Project Plans