

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: 11 May 2006/ 9:10 a.m.	Agenda Item 4
Project Description: Variance and Design Approval (PLN050624 Wenglikowski) to allow an increase in site coverage from 15 to 17 percent. This variance would allow a 332 sq. ft. first floor addition with deck and window seat to an existing two-story single-family dwelling.	
Project Location: 138 Carmel Riviera Dr	APN: 243-163-003-000
Planning Number: PLN050624	Name: Wenglikowski
Plan Area: Carmel Highlands	Flagged and Staked: NO
Zoning Designation: LDR/1-D (26) (CZ)	
CEQA Action: Exempt	
Department: Planning and Building Inspection	

RECOMMENDATION:

Deny variance request based on Findings and Evidence (**Exhibit A**).

PROJECT SUMMARY: Staff is recommending denial of the applicant's request because the evidence presented does not support two of the three mandatory findings required by County code to allow a variance. Given the facts of the proposal and the evidence presented by the applicant, as explained below, the mandatory findings cannot be made related to special circumstances and not granting special privileges. The applicant's variance request is basically predicated on the argument that the parcel's small size is limiting the square footage of the house under current regulations. It is clear that County decision-makers were aware of the smaller lot sizes throughout the County when they originally adopted the 15 percent limitation into County code. The limitation provides for a house size that is proportional to lot size. The appropriate remedy is to rezone the neighborhood to allow an increase of 15 percent lot coverage limitation given the circumstances of the entire area and lot sizes. This should also include a review of the reasons for the 15 percent limitation in general, and how it applies to the subject area.

PROJECT OVERVIEW: The applicant is requesting a variance to exceed the 15 percent maximum allowable lot coverage by two percent in order to accommodate the proposed 332 sq. ft. addition, deck and window seat. The applicant's request is based on the lot's special circumstances i.e. the "lot's comparatively small size" (**Exhibit D**), however the subject property is equal or larger in size than its neighboring parcels (**Exhibit E, Map**). Staff also concludes that the applicant does not provide adequate evidence to show special circumstances existing on the subject property, e.g. a steep lot or unstable soil, irregular shape, which would warrant exceeding the site coverage requirements. The applicant maintains that the variance would not be a granting of special privileges, as nearby properties had similar variances approved in the past. However, of the seven variance requests provided by the applicant, staff found only two that were applicable: ZA7233 Kamellard and ZA07373 Danielson (**Table A, below**). Of the remaining five presented, one does not apply due to different zoning designations, one was denied, and three were approved for existing legal non-conforming structures with structures already exceeding lot coverage. When the applicant's request is compared to the Kamellard and Danielson approvals, staff finds Kamellard's lot size to be 7.7 percent smaller than the applicant's (0.39 and 0.42 acres, respectively), while the applicant's requested lot coverage to be 6.3 percent larger than the Danielson approval (17 and 16 percent, respectively). Since this project involves a structure at 15 percent lot coverage on a relatively flat, regular shaped lot of 0.42 acres, staff cannot find evidence of special circumstances for granting a variance. Staff also concludes that approving the variance would be a granting of special privileges because the request is dissimilar to other variances granted.

The project qualifies for a Categorical Exemption under CEQA pursuant to Section 15301(c). No issue remains unresolved for this project.

Please see **Exhibit F** for related materials and analysis of variance requests in the area.

OTHER AGENCY INVOLVEMENT:

- ✓ Water Resources Agency
- ✓ Environmental Health Division
- ✓ Public Works Department
- ✓ California Coastal Commission
- ✓ Fire Protection District

All have reviewed this project.

Note: The decision on this project is appealable to the Planning Commission.

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cc: Zoning Administrator, Jeff Main, Applicant, Agent, File

Attachments: Exhibit A Recommended Findings and Evidence
Exhibit B Vicinity Map
Exhibit C Pictures
Exhibit D Variance Request letter
Exhibit E Parcel Map of Nearby Properties
Exhibit F Previous Variance Request files
Exhibit G Site Plans

This report reviewed by Jeff Main, Planning and Building Services Manager.

PROPERTY 89-05

	<i>File</i>	<i>Owner</i>	<i>%</i>	<i>AC.</i>	<i>Date</i>	<i>APN</i>	<i>Zone</i>	<i>Comments</i>
1	PC95053	Mignon	42	0.19	Jul-95	243-054-002	MDR	Not in same zoning does not apply to LDR
2	PC93178	Dorricott	19	0.53	Jul-94	243-152-011	LDR	Approved/ reduced existing non-conforming SFD by 77 SF to bring lot coverage from 20% to 19%
3	ZA07373	Danielson	16	0.41	May-90	243-153-005	LDR	Approved/Kamellard finding of small lot cited as precedent
4	PLN965350	Hull	16	0.46	Jan-97	243-161-021	LDR	Approved/reduction side yard setback only (existing house)
5	ZA7233	Kamellard	17	0.39	Aug-89	243-154-004	LDR	Approved/staff recommended denial/ special circumstances: smaller lot
6	PLN040627	Shachmut	17	0.41	Feb-05	243-162-002	LDR	Denied/deck on slope counted as coverage
7	PLN980426	Levinger	19	0.22	Dec-98	243-282-014	LDR	Approved/existing non-conforming SFD, site rezoned in 1988

Exhibit A

1. FINDING: CONSISTENCY – The project (PLN050624), is consistent with the plans, policies, requirements and standards of the Local Coastal Program (LCP) except for lot coverage. The LCP for this site consists of the Carmel Area Land Use Plan, Carmel Area Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance).

EVIDENCE: (a) The project planner conducted an on-site inspection to verify that the project is consistent with the plans listed above. The development does not have a significant adverse visual impact when viewed from a public viewing area.

(b) The applicant provided the Monterey County Planning and Building Inspection Department with a Design Approval Request, drawings, and a statement of materials and colors to be used.

(c) The parcel is zoned Low Density Residential, one unit per acre, Design Control, 26-foot height limit, Coastal Zone (LDR/1-D(26)(CZ)). The project is currently in compliance with Site Development Standards for the Low Density Residential Zoning District in accordance with §20.14.060.E (Building Site Coverage, Maximum: 15%) of the Monterey County Zoning Ordinance.

(d) The project and the site have been reviewed by the Monterey County Planning and Building Inspection Department, the Carmel Highlands Fire Protection District, the Monterey County Water Resources Agency, the Monterey County Public Works Department, and the Monterey County Environmental Health Division. There has been no indication from these agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

(e) The subject property is not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

2. FINDING: CEQA (Exempt) - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15301(e) categorically exempts additions to structures.

(b) No adverse environmental effects were identified during staff review of the development application and during the site visit.

(c) Preceding and following findings and supporting evidence.

3. FINDING: NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations on subject property.

4. FINDING: HEALTH AND SAFETY - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the 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 improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

5. FINDING: VARIANCE, Special Circumstances – No special circumstances applicable to the subject property are found, including the size, shape, topography, location of the lot, or the surrounding area, such that the strict application of Section 20.14.060.E. (Building Site Coverage, Maximum) of the Title 20 (Zoning Ordinance) that would deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE: (a) The existing structure is currently at 15 percent lot coverage on a relatively flat, regular shaped lot of 0.42 acres.
(b) Project plans & materials found in planning file PLN050624.
(c) Respective lot sizes of nearby properties (Exhibit E Map).

FINDING: VARIANCE, Special Privilege – Staff reviewed the seven variance requests from 1989 to 2005 submitted by the applicant. After this review, staff concludes that the granting of special privileges did not exist for the variances approved for existing legal non-conforming structures or to rezoned property (Table A, above). Of the two variances granted for small lot size, ZA7233 Kamellard and ZA07373 Danielson, Kamellard has a smaller lot size (0.39 acres) than the applicant's (0.42 acres) while Danielson requested a smaller percentage of lot coverage, 16 percent to the applicant's 17 percent. Therefore, the applicant's request to exceed the maximum allowable lot coverage would constitute a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

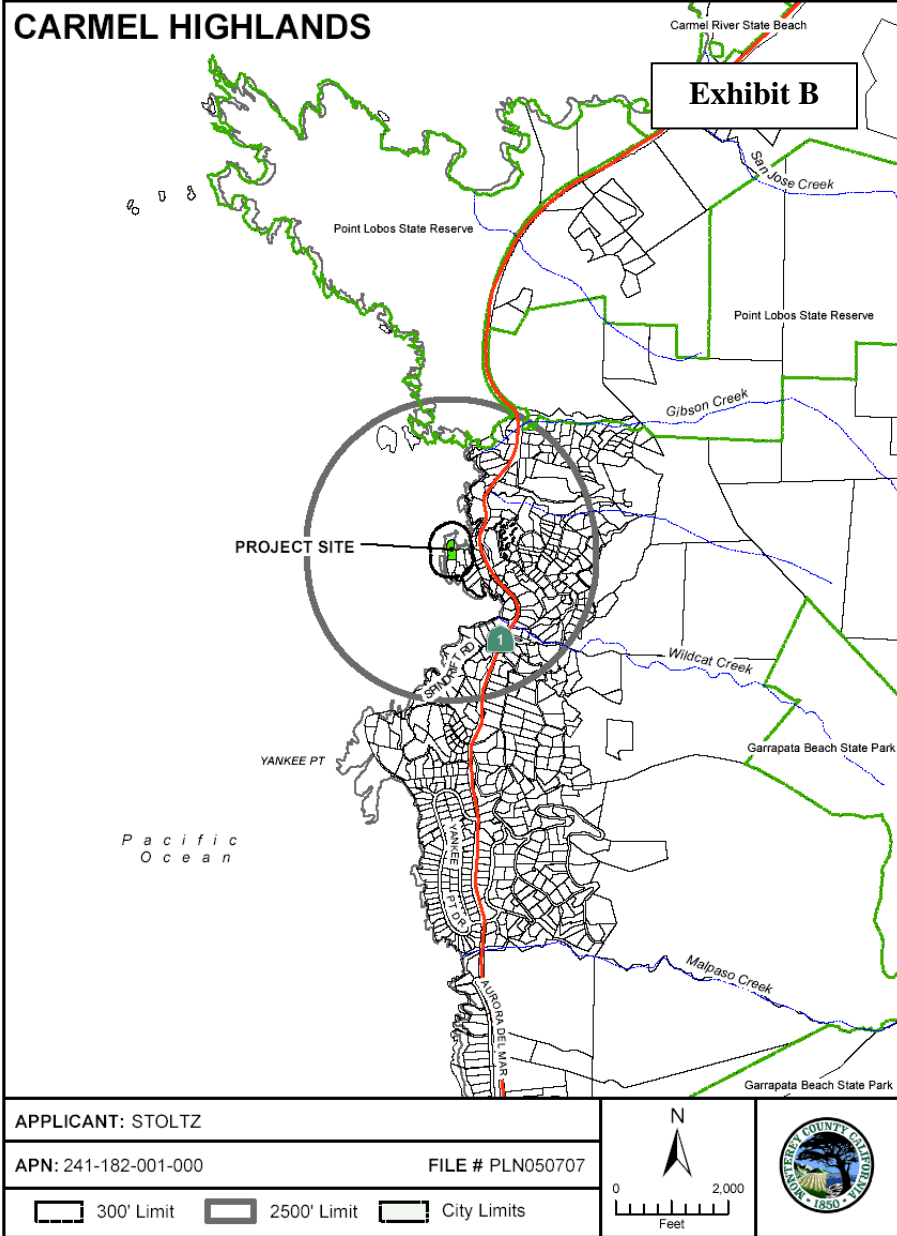
EVIDENCE: (a) Resolutions and planning reports found in Exhibit F.
(b) Denial of PLN040627 (Shachmut), variance to exceed 15 percent lot coverage.
(c) Project plans & materials found in planning file PLN050624.
(d) Respective lot sizes of nearby properties (Exhibit E).

6. FINDING: VARIANCE, Allowed Use – The variance does not grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: The single family residential use proposed is allowed under the Zoning Regulations (Title 20) for the LDR district.

7. FINDING: APPEALABILITY - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance (Title 20).



PLANNER: BONEKEMPER



Exhibit C

View from street



Area of proposed addition and neighboring property



Addition area looking north

