

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> June 26, 2008	1:30 P.M	<b>Agenda Item No.:</b>
<b>Project Description:</b> Variance request to allow a nine (9) foot front yard setback where a fifty (50) foot front yard setback is required and a minor modification of a previously approved Design Approval (DA060090) and issued Building Permit (BP061064) to allow the construction of a detached 600 square foot guesthouse with attached 20 square foot mechanical room.		
<b>Project Location:</b> 17 La Rancheria, Carmel Valley		<b>APN:</b> 187-131-009-000
<b>Planning File Number:</b> PLN070390		<b>Name:</b> GUENTHER, Ralph and Elizabeth, Property Owner
<b>Plan Area:</b> Carmel Valley Master Plan		<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> : LDR/1-D-S Low Density Residential, 1.0 acres per unit with Design Control, and Site Plan Review Overlays.		
<b>CEQA Action:</b> Categorically Exempt per Section 15303		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Zoning Administrator: 1) Approve the Variance Request and 2) Approve the minor modification to Design Approval DA060090 and Building Permit BP061064 based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**).

### PROJECT SUMMARY:

The project is located on a 1.49 acre parcel located at 17 La Rancheria in Carmel Valley. Primary issues involve the location and construction of a proposed Guesthouse, previously allowed by Design Approval DA060090 and Building Permit BP061064. During construction, after excavating dirt and prior to foundation pouring, property owners, Ralph and Elizabeth Guenther, discovered that the area of development was located within the required fifty (50) foot accessory structure front yard setback area. These issues are resolved by applying for and obtaining a Variance Permit to allow for the construction within the required setback. A minor modification to the previously approved Design Approval and issued Building Permit is also required.

### OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Valley Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by Carmel Valley Fire Protection District, Water Resources Agency, the Planning Department have been incorporated into the condition compliance reporting plan (**Exhibit D**).

The project was referred to the Carmel Valley Land Use Advisory Committee (CVLUAC) for review on May 19, 2008. After brief discussions and project review, the CVLUAC recommended approval of the Variance Request, as described in the project description. Copies of the CVLUAC minutes have been included for review (**See Exhibit E**).

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

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David J. R. Mack, Assistant Planner  
(831) 755-5096, [mackd@co.monterey.ca.us](mailto:mackd@co.monterey.ca.us)  
May 22, 2008

cc: Front Counter Copy, Zoning Administrator; Carmel Valley Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Taven Kinison Brown, Planning Services Manager; David J. R. Mack, Planner; Carol Allen, Ralph and Elizabeth Guenther, Applicants; Timothy Sherer, Agent; Steve Dallas, Neighbor; Michael Groves, Neighbor; Mark Blum, Attorney; Planning File PLN070390.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Project Overview
	Exhibit C	Recommended Findings and Evidence
	Exhibit D	Recommended Conditions of Approval
	Exhibit E	LUAC Minutes
	Exhibit F	DA060090 Site Plan
	Exhibit G	Photos of Construction – Guesthouse/Hobby Room
	Exhibit H	Variance Justification Letter
	Exhibit I	Letter of Concern from Mark A. Blum, on behalf of George and Elizabeth Groves.
	Exhibit J	Site Plan, Elevations, Floor Plans

This report was reviewed by Taven Kinison Brown, Planning Services Manager.

## **EXHIBIT B**

### **PROJECT OVERVIEW**

The subject parcel is a 1.49 acre (64,904 square foot) parcel at 17 La Rancheria, located off Los Laureles Grade Road, in Carmel Valley. The parcel is zoned LDR/1-D-S or “Low Density Residential, 1.0 acres per unit with Design Control, and Site Plan Review overlays”, and located in the Carmel Valley Master Plan Area. The parcel is surrounded on three sides by both La Rancheria and Via Los Zorros, requiring all development to comply with three front yard setbacks. The northern side of the parcel (along La Rancheria) contains a thirty (30’) foot wide road right-of-way easement. In addition, the eastern and south-eastern sides of parcel (along Via Los Zorros) each contain fifteen (15’) wide road right-of-way easements. The western and northern sides of the parcel contain numerous protected Coast Live Oak trees.

Typically, 1.49 acres provides an adequate amount of area for a single family dwelling and additional accessory structures to be constructed in compliance with all of the site development standards mandated by the Low Density Residential zoning designation. In this case however, the Low Density Residential site development standards, specifically the required fifty (50) foot front yard setback for accessory structures, leave the parcel with a building site of approximately 17,538 square feet, when measured from the edge of all road and utilities easements. The main residence (4,322 square feet) and detached garage (572 square feet), enclosed paved parking area and patios, along with numerous oak trees on the west of the property, drastically reduce the remaining building site area.

#### **Project History**

On February 15, 2006, property owners, Ralph and Elizabeth Guenther applied for Design Approval DA060090, to “allow for the construction of a new 600 square foot guesthouse with an attached 20 square foot mechanical shed. Materials consist of stucco with a tile roof. Colors consist of bone white with brown trim on wood windows.” The site plan submitted with Design Approval DA060090 depicted the development area for the proposed Guesthouse to be located fifty (50) feet from the property line, satisfying the front yard setback requirement for accessory structures, as defined by the Low Density Residential Site Development Standards found in Section 21.14.060.2.a (**See Exhibit F**). On February 17, 2006, an Administrative approval was issued to approve the Design Approval request, with a “Final Decision” being granted on February 23, 2008.

Subsequently, on May 3, 2006, the Guenther’s applied for Building Permit BP061064, again to “allow for the construction of a new 600 square foot guesthouse with an attached 20 square foot mechanical shed.” During the building permit review process, the Guenther’s were unable to obtain approval for added fixtures and water use, associated with the guesthouse, from the Monterey Peninsula Water Management District. On February 9, 2007, the project description for Building Permit BP061064 was amended to allow for a “Hobby Room addition of 600 square feet with a tool shed of approximately 20 square feet. (No water fixtures are allowed with this permit).” On this same date, February 9, 2007, Building Permit BP061064 was approved and issued.

Upon receipt of the Building Permit BP061064, construction began for the proposed Hobby Room, including excavating dirt to allow for the creation of foundation forms and underground electrical wiring (**See Exhibit G**). On February 26, 2007, Inspections were preformed and approved for: Foundation/Footings, Stemwalls, Hold Downs, and Concrete Encased Electrical Ground. On this date, while attempting to obtain “setback verification,” the surveyor informed

the property owners, that the actual development area was within the required fifty (50) foot accessory structure front yard setback area, when measured from the edge of the thirty (30) foot road right-of-way easement to the north of parcel (La Rancheria). In addition, it was discovered that the actual location of the proposed Hobby Room had been changed slightly with the eastern corner of the building twisting upward in a northern direction. At this point, the Guenther's voluntarily stopped construction, and began the Variance Request process to remedy the situation.

On July 19, 2008, an Application Request Form and site plan was submitted to the Monterey County Resource Management Agency – Planning Department for review and consideration. After a brief review period, the application materials and all requirements (reports, fees, number of plans, etc.) were given to the property owner, Ralph Guenther on August 23, 2007. Eight months later, On April 23, 2008, the Variance was applied for and submitted by the owner's representative. The project was submitted, on April 23, 2008, for Inter-Departmental Review (IDR) by Environmental Health, Carmel Valley Fire Protection District, Water Resources Agency, Public Works, and RMA – Planning Department. On May 14, 2008, the project was deemed complete with applicable conditions by all reviewing agencies (**See Exhibit D**).

On May 19, 2008, the project was presented to the Carmel Valley Land Use Advisory Committee (CVLUAC) for review and consideration. After hearing presentations from planning department staff, the applicant, applicant's representative, and various neighbors opposed to the project, the CVLUAC supported approval of the Variance request "as described in the project description." Minutes of this meeting are attached (**See Exhibit E**).

### **Water Considerations**

As referenced in earlier discussions, the original project proposal (DA060090) involved the construction of a Guesthouse, which was later amended to be a "Hobby Room" (BP061064) due to lack of water credit availability. Subsequently, the property owners were informed by Monterey Peninsula Water Management that water fixture credits could be transferred from the existing single family dwelling to the proposed Guesthouse if a well was drilled on site and pump tests performed providing a reliable water source.

On May 19, 2008, Ralph Guenther, property owner, informed staff that a well has been drilled on the property, and pump tests are scheduled for June 16, 2008. On June 2, 2008, Mr. Guenther stated to staff that he anticipates a positive result from the scheduled pump test. This would allow the transfer of water fixture credits required for the Guesthouse proposal.

In the event that pump tests come back negative, or Monterey Peninsula Water Management District does not allow for the transfer of water fixture credits, the proposed guesthouse will again revert back to being a "Hobby Room" and will not be allowed to include restroom facilities or water fixtures.

### **Correspondence Received**

On May 30, 2008, staff received a letter of concern from Mark A. Blum, on behalf of George and Elizabeth Groves, residents at 20 La Rancheria, Carmel Valley, California. The Groves' property is located to the north of the subject property. Mr. Blum's letter expressed concerns, including: 1) material omissions from previous requests and approvals (DA060090 and BP061064); 2) modifications to previous approvals (DA060090); 3) availability of water credits and fixture counts; 4) location of excavation for Guesthouse/Hobby Room foundation; 5) location of proposed Guesthouse construction; and 6) basis of making required findings in

support of a Variance request. Mr. Blum's letter also expressed the Groves' intentions and request to refer the project to the Planning Commission for consideration, pursuant to Title 21, Chapter 21.04.030.F.3 (significant changes in nature of a community) and 21.04.030.F.4 (establishment of precedents or standards by which other projects will be measured) (**See Exhibit I**).

All issues and concerns raised by Mr. Blum's letter can be address by the following:

- 1) "Material Omissions" – When applied for, plans for both DA060090 and BP061064, did not include the location and placement of all road right-of-way easements bordering the subject property on La Rancheria and Via Los Zorros. Without this information being depicted on supplied plans, both applications were subsequently approved and/or issued. During construction, when the location and placement of all easement were discovered, all construction was immediately halted, and the property owners, Ralph and Elizabeth Guenther, began this Variance application process, in an effort to correct any previous negligence.
- 2) "Modification to previous approvals" – The current project description and proposal includes a modification to previously approved DA060090, in terms of placement/location of the proposed structure. During excavation and grading for the Guesthouse/Hobby room foundation, the project area was twisted in a counter-clockwise direction. The north-west corner of the proposed structure maintained proper placement, while the north-east corner moved approximately 10 feet closer to the property line, changing the overall setback from 20 feet, as proposed in DA060090 and BP061064, to 9-10 feet, as proposed in this application PLN070390.
- 3) "Water credits and fixture counts" – In 2006 DA060090 approved the construction of a Guesthouse, including bathroom facilities. After approval, and during the Building Permit stage (BP061064), Water Resources Agency approved the supplied water form, documenting all proposed fixture counts on the subject property. However, the Monterey Peninsula Water Management District did not stamp and/or approve the plans and water form, due to water availability issues. The project was subsequently amended, removing the bathroom facilities, and changing the project description to "Hobby Room." In working with Monterey Peninsula Water Management, Mr. and Mrs. Guenther were informed that subject to drilling a well and receiving a positive pump test, water credits and fixture counts could be transferred from the existing single family dwelling to the proposed Guesthouse, allowing for the original proposal to be constructed. A well was subsequently drilled on the subject parcel, and pump tests are scheduled for June 16, 2008.
- 4) "Location of excavation for foundation" – During the construction phase of BP061064, the foundation area of the proposed Guesthouse/Hobby Room, was twisted in a counter clock-wise direction, reducing the setback from the La Rancheria road right-of-way easement by approximately 10 feet, creating a 9 foot setback, instead of a 20 foot setback. The general location of the proposed Guesthouse/Hobby Room remained the same, however. The site plan approved under DA060090 and BP061064 depicts the proposed structure to be "square to the road", while the actual construction was done in a manner to "square" the unit to the existing detached garage.
- 5) "Location of proposed construction" – The subject parcel, although 1.49 acres (64,904 square feet) in size, has a very limited development area. After taking into account the two roads, La Rancheria and Via Los Zorros, which surround the parcel, which require the parcel to comply with three front yard setbacks (50 feet for accessory structures), and the associated road right-of-way easements (30 feet on La Rancheria and 15 feet on Via Los Zorros), the potential development areas on site are drastically reduced. The main

residence (4,322 square feet), detached garage (572 square feet), enclosed paved parking area, paved garage access area, and patios, along with numerous Oak trees on the west of the property, drastically reduce the remaining building site area. All other undeveloped areas on the subject parcel would require either Oak trees removal, encroachment into the required setbacks (requiring a Variance). Some remaining undeveloped areas would require both. The current proposed location of the Guesthouse/Hobby Room unit, avoids having to removal any Oak trees.

- 6) “Required Variance Finding” – The basis and ability to make the required Variance findings are listed below and contained in the Findings and Evidence section (see **“Variance Request” and Finding 5, 6, and 7).**

Title 21, Chapter 21.04.030.F states that “If at any point in the consideration of the permit application the Director of Planning or the Zoning Administrator finds that an application before the Zoning Administrator involves any of the listed factors, the Zoning Administrator shall refer the application to the Planning Commission. In such case, the Planning Commission shall become the Appropriate Authority.” Listed factors include:

21.04.030.F.3 – Significant changes in the nature of a community

21.04.030.F.4 – Establishment of precedents or standards by which other projects will be measured.

In respect to the Groves’ request to refer the project to the Planning Commission, the Director of Planning made the decision to allow the project to proceed as scheduled to the Zoning Administrator, as the Zoning Administrator is listed as the appropriate authority for all Variance request applications. This allows the Zoning Administrator to either take action on the matter or refer the project to the Planning Commission.

### **Variance Request**

The property is zoned LDR/1-D-S or “Low Density Residential, 1.0 acres per unit with Design Control, and Site Plan Review overlays,” which for accessory structures, requires a fifty (50) foot front yard setback, six (6) foot side yard setback, and a six (6) foot rear yard setback. The request for a Variance is due to the encroachment of the proposed Guesthouse on the fifty (50) foot front yard setback. Due to negligence of the property owner, the appropriate road right-of-way easements were not depicted on the site plans when Design Approval DA060090 and Building Permit BP061064 were applied for in 2006 and 2007, both of which were subsequently approved. As a result, the Variance request is “to allow a nine (9) foot front yard setback where a fifty (50) foot front yard setback is required and minor modification to a previously approved design approval (DA060090) and issued building permit (BP061064) to allow the construction of a detached 600 square foot guesthouse with attached 20 square foot mechanical room.”

To allow for the granting of a Variance request, staff is required to make the following findings:

- That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
  - The subject parcel contains three fronts, in addition to the thirty (30) foot road right-of-way easement that borders the northern parcel boundary, and the fifteen (15) foot road right-of-way easement that borders the eastern and south-eastern parcel boundaries. When the required fifty (50) foot accessory structure front setback is measured from the edge of all appropriate road right-of-way easements, the developable area on the parcel is drastically reduced.

- The western and northern side of the parcel also contains numerous protected Coast Live Oak trees. Development on the western portion of the parcel would require tree removal. The current proposed location of construction, although within the setback area, does not require any Oak tree removals
- The proposed location of construction, although forty-one (41) feet into the required fifty (50) foot setback, remains approximately forty (40) feet from the property line, and approximately fifty-six (56) feet from the existing course of the roadway (La Rancheria). If the full road right-of-way easement was to be used in the future, the proposed Guesthouse would remain approximately nine (9) to ten (10) feet away from the roadway.
- The Variance not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone n which subject property is situated.
  - As many as six habitable accessory units have been approved in the immediate vicinity of the subject parcel. Denial of this Variance request would deprive the property owners to enjoy the same privileges enjoyed by others in the vicinity and under the same zoning classification.
- A Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel or property.

The Variance request is tied to a residential use, which is authorized by the residential zone governing the subject parcel.

### **Conclusion**

Staff is recommending approval of the Variance request based on the following: 1) The project is consistent with all applicable land use codes, regulations and development standards, with the exception of the front setback; 2) The site is suitable for residential development; 3) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts the construction of small accessory structures; 4) No violations exist on the subject parcel; 5) All three required Variance findings can be made and supported; and 6) The project is will not be detrimental to public health and safety.

## **EXHIBIT C**

### **RECOMMENDED FINDINGS AND EVIDENCE**

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Carmel Valley Master Plan, Carmel Valley Master Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.

**EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

(b) The property is located at 17 La Rancheria, Carmel Valley (Assessor's Parcel Number 187-131-009-000), Carmel Valley Master Plan. The parcel is zoned LDR/1-D-S or "Low Density Residential (1 acre minimum) with Design Control and Site Plan Review Overlays" which allows Guesthouses meeting the development standards of Section 21.64.020, subject to issuance of a Design Approval. (Design Approval DA060090 previously approved on February 23, 2006). Therefore, the property is suitable for the proposed development.

(c) The project planner conducted a site inspection on August 8, 2007 and April 30, 2008 to verify that the project on the subject parcel conforms to the plans listed above.

(d) The project was referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review on May 19, 2008. A copy of the LUAC minutes and recommendations have been attached. (Exhibit E)

(e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070390.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

**EVIDENCE:** (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Valley Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

(b) Technical reports by outside archaeological, and geotechnical consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:

- i. "Archeological Reconnaissance" (LIB080238) prepared by Archaeological Consulting (Mary Doane, B.A. and Gary S. Breschini, Ph.D.), Salinas, California, November 5, 2007.
- ii. "Geotechnical Investigation" (LIB080237) prepared by Soil Surveys, Inc. (Richard E. Dante, P.E.), Salinas, California, April 29, 2004.



- (c) Staff conducted site inspections on August 8, 2007 and April 30, 2008 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN070390.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

**EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts the construction of small accessory structures.  
(b) No adverse environmental effects were identified during staff review of the development application during a site visit on August 8, 2007 and April 30, 2008.  
(c) See preceding and following findings and supporting evidence.

4. **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 costs, if any, have been paid.

**EVIDENCE:** (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

5. **FINDING: VARIANCE (Special Circumstances)** – Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Monterey County Zoning Ordinance (Title 21), as it pertains to site development standards, is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**EVIDENCE:** (a) 1) The Low Density Residential site development standards require a minimum building site of one acre (unless otherwise approved as part of a residential subdivision). The subject parcel for this project is 1.49 acres (64,904 square feet), contains three fronts, is bordered by two roadways, a thirty (30) foot road and utilities easement on one side, and a fifteen (15) foot road and utilities easement on the two remaining sides. 2) Typically, 1.49 acres provides an adequate amount of area for a single family dwelling and additional accessory structures to be constructed in compliance with all of the site development standards mandated by the Low Density Residential zoning designation. In this case however, the Low Density Residential site development standards, specifically the required fifty (50) foot front yard setback for accessory structures, leave the parcel with a building site of approximately 17,538 square feet, when measured from the edge of all road and utilities easements. 3) The main residence (4,322 square feet) and detached garage (572 square feet), enclosed paved parking area and patios, along with numerous oak trees on the west of the property, drastically reduce the remaining building site area.  
(b) On February 15, 2006, property owners, Ralph and Elizabeth Guenther, applied for a Design Approval permit to allow the construction of a Guesthouse. On February 23, 2006, the Design Approval request was approved, allowing the construction of the Guesthouse in the same

location as requested by this Variance Request. However, at the time of approval, the sixty (60) foot wide (30 feet on each side of parcel line) road right of way easement was not depicted on supplied plans, thus the required fifty (50) foot accessory structure front yard setback had only been measured from the property line, not the edge of the appropriate road easement. (See Exhibit F). Subsequently, a Building Permit (BP061064) was applied for on May 3, 2006. While in review, the proposed Guesthouse was amended to be a “Hobby Room” and the bathroom was removed, due to the lack of water credit availability. On February 9, 2007, BP061064 was approved and issued, allowing the construction of the amended “Hobby Room”.

- (c) The western portion of the parcel contains numerous protected Coast Live Oak trees, which would require removal of allow for the construction of the Guesthouse. The current proposed location of construction does not require any Oak tree removals.
- (d) One of the intentions of setback regulations is to comply with all applicable Fire Code requirements. The Carmel Valley Fire Protection Department has found the project complies with all applicable Fire Code requirements.
- (e) The project meets all other Title 21, mandated site development standards.
- (f) Materials in Project File PLN070390.

**6. FINDING: VARIANCE (Special Privileges)** – The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and same zone classification in which this property is situated.

**EVIDENCE:** (a) The Variance request does not constitute the granting of a special privilege inconsistent with the limitations upon other properties in the vicinity and under the same zone classification. As many as six habitable accessory units have been approved in the immediate vicinity of the subject parcel. 1) On March 14, 1985, the Zoning Administrator approved Use Permit, allowing “a Guesthouse and addition to height requirements” to be constructed on Assessor’s Parcel Number 187-131-013-000 (See file number ZA-6104). 2) In 2007, a Design Approval and Building Permit were applied for, approved, and issued for the construction a “hobby room” on Assessor’s Parcel Number 187-131-013-000. (See files DA070180 and BP071077).

- (b) Properties within the immediate vicinity of the subject parcel enjoy the privilege of having habitable accessory structures. Denial of this Variance request would deprive the property owners to enjoy the same privileges enjoyed by others in the vicinity and under the same zoning classification.

**7. FINDING: VARIANCE (Authorized Use)** – A Variance shall not be granted for a use or activity which is not otherwise authorized by the zone regulation governing the parcel.

**EVIDENCE:** (a) The Variance request is tied to a residential use, which is authorized by the residential zone governing the subject parcel.

8. **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:** (a) Preceding findings and supporting evidence.

9. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

**EVIDENCE:** Section 21.80.040.B Monterey County Zoning Ordinance (Title 20)

<p align="center"><b>EXHIBIT D</b></p> <p align="center"><b>Monterey County Resource Management Agency</b></p> <p align="center"><b>Planning Department</b></p> <p align="center"><b>Condition Compliance and/or Mitigation Monitoring Reporting Plan</b></p>	<p><b>Project Name:</b> <u>GUENTHER, Ralph and Elizabeth</u></p> <p><b>File No:</b> <u>PLN070390</u>      <b>APNs:</b> <u>187-131-009-000</u></p> <p><b>Approved by:</b> <u>Zoning Administrator</u>      <b>Date:</b> <u>June 26, 2008</u></p>
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*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p><b>PD001 - SPECIFIC USES ONLY</b></p> <p>This Variance Permit (PLN070390) allows a nine (9) foot front yard setback where a fifty (50) foot front yard setback is required, to allow the construction of a detached 600 square foot guesthouse with attached 20 square foot mechanical room. The project is related to a previously approved design approval (DA060090) and issued building permit (BP061064). The property is located at 17 La Rancheria, Carmel Valley (Assessor's Parcel Number 187-131-009-000), Carmel Valley Master Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. <b>(RMA - Planning Department)</b>				
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A Variance (Resolution PLN070390) was approved by the Zoning Administrator for Assessor's Parcel Number 187-131-009-000 on June 26, 2008. The permit was granted subject to <u>19</u> conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. <b>(RMA - Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		<b>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</b> If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. <b>(RMA - Planning Department)</b>	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeologist	Ongoing	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		<p><b>PD004 - INDEMNIFICATION AGREEMENT</b></p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)</p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable	

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5.		<b>PD007 - GRADING-WINTER RESTRICTION</b> No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services Department. (RMA – Planning Department and Building Services Department)	Obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.	Owner/ Applicant	Ongoing	
6.		<b>PD009 - GEOTECHNICAL CERTIFICATION</b> Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (RMA – Planning Department and Building Services Department)	Submit certification by the geotechnical consultant to the RMA – Building Services Department showing project's compliance with the geotechnical report.	Owner/ Applicant/ Geotechnical Consultant	Prior to final inspection	
7.		<b>PD011 – TREE AND ROOT PROTECTION</b> Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by a certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits.(RMA - Planning Department)	Submit evidence of tree protection to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and/or building permits	
			Submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.	Owner/ Applicant/ Arborist	During Construction	
			Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection	

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8.		<b>PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN</b> All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. <b>(RMA – Planning Department)</b>	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.  The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant   Owner/ Applicant	Prior to the issuance of building permits.  Prior to Occupancy / Ongoing	
9.		<b>PD016 – NOTICE OF REPORT</b> Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "An Archaeological Reconnaissance report has been prepared for this parcel by Archaeological Consulting, dated November 5, 2007 and is on record in the Monterey County RMA - Planning Department , Library No. LIB080238. All development shall be in accordance with this report." <b>(RMA – Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
10.		<b>PD016 – NOTICE OF REPORT</b> Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Geotechnical Investigation report has been prepared for this parcel by Soil Survey, Inc., dated April 29, 2004 and is on record in the Monterey County RMA - Planning Department , Library No. LIB080237. All development shall be in accordance with this report." <b>(RMA – Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	



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11.		<b>PD019(A) – DEED RESTRICTION – GUESTHOUSE (INLAND)</b> The applicant shall record a deed restriction stating the regulations applicable to a Guesthouse as follows: <ul style="list-style-type: none"> <li>• Only one guesthouse shall be allowed per lot.</li> <li>• Detached guesthouses shall be located in close proximity to the principal residence.</li> <li>• Guesthouses shall share the same utilities with the main residence, unless prohibited by public health requirements.</li> <li>• The guesthouse shall not have cooking or kitchen facilities, including but not limited to microwave ovens, hot plates and toaster ovens.</li> <li>• The guesthouse shall have a maximum of six (6) linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of eight (8) square feet of cabinet space, excluding clothes closets.</li> <li>• The guesthouse shall not exceed 600 square feet of livable floor area.</li> <li>• The guesthouse shall not be separately rented, let or leased from the main residence whether compensation be direct or indirect.</li> <li>• Subsequent subdivisions which divide a main residence from a guesthouse shall be prohibited.</li> <li>• The guesthouse shall be designed in such a manner as to be visually consistent and compatible with the main residence on site and other residences in the area.</li> <li>• The guesthouse height shall not exceed 15 feet nor be more than one story.</li> </ul> <b>(RMA – Planning Department)</b>	Submit signed and notarized document to the Director of RMA – Planning Department for review and signature by the County.	Owner/ Applicant	Prior to the issuance of grading or building permits	
			Proof of recordation of the document shall be submitted to the RMA – Planning Department.	Owner/ Applicant	Prior to occupancy or commencement of use	

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12.		<b>WR40 - WATER CONSERVATION MEASURES</b> The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to: a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. <b>(Water Resources Agency)</b>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	
13.		<b>WR43 - WATER AVAILABILITY CERTIFICATION</b> The applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. <b>(Water Resources Agency)</b>	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	
14.		<b>FIRE011 - ADDRESSES FOR BUILDINGS</b> All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

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		occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. <b>(Carmel Valley Fire Protection District)</b>	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
15.		<b>FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD)</b> Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. <b>NOTE: REQUIRED DISTANCE IS 100 FEET.</b> <b>(Carmel Valley Fire Protection District)</b>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	

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16.		<b>FIRE021 - FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</b> The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. <b>(Carmel Fire Protection District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
			Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	
17.		<b>FIRE025 - SMOKE ALARMS – (SINGLE FAMILY DWELLING)</b> Where a household fire warning system or combination fire/burglar alarm system is installed in lieu of single-station smoke alarms required by the Uniform Building Code the alarm panel shall be required to be placarded as permanent building equipment. <b>(Carmel Valley Fire Protection District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire alarm system acceptance test.	Applicant or owner	Prior to final building inspection	
18.		<b>FIRE028 - ROOF CONSTRUCTION - (CARMEL VALLEY FPD)</b> All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. <b>(Carmel Valley Fire Protection District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

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19.		<b>FIRE030 – NON-STANDARD CONDITIONS – FIRE DEPARTMENT NOTES (CARMEL VALLEY FPD)</b> The full text of all required fire conditions must be noted on all plans (Building and Grading) as “FIRE DEPARTMENT NOTES”. The Fire District will not accept or approve building or grading plans without the “FIRE DEPARTMENT NOTES.”	Applicant shall enumerate as “Fire Department Notes” on plans.	Applicant or Owner	Prior to issuance of building and/or grading permits.	

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