

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: February 12, 2009	Time: P.M	Agenda Item No.:
Project Description: Coastal Development Permit to allow development (removal of an existing wood deck and replacement with a concrete slab) within 750 feet of a known archaeological resource, and a Design Approval.		
Project Location: 26386 Isabella Avenue, Carmel		APN: 009-441-011-000
Planning File Number: PLN090005		Name: Jamie Gutierrez, Property Owner
Plan Area: Carmel Area Land Use Plan		Flagged and staked: No
Zoning Designation: MDR/2-D (CZ) [Medium Density Residential, 2 units per acre, with a Design Control Overlay (Coastal Zone)]		
CEQA Action: Categorically Exempt, per Section 15301(e)		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Coastal Development Permit and Design Approval as described above, based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions of Approval (**Exhibit C**).

PROJECT OVERVIEW:

The project involves a Coastal Development Permit and Design Approval to allow the removal of an existing wood deck and replacement with a concrete slab. The project site is a 4,000 square foot parcel located at 26386 Isabella Avenue, in Carmel. The project involves development within 750 feet of a known archaeological resource, but there are no significant issues given the limited extent of the proposed development. All work will occur on land that has already been disturbed. Most of the area under the existing deck is paved. The pavement will be left in place. There is only a small portion of area under the deck that does not have existing paving. The Archaeologist's Report believes that the ground in this area is not original grade, but has been filled by as much as two feet. There will not be any digging for the concrete landing, and an archeologist will be on site during the demolition of the deck. The size of the concrete landing will be the same size and configuration as that of the existing deck. The archaeological survey prepared for this project did not find evidence of archaeological resources on the parcel. Therefore, the potential for inadvertent impacts is limited and can be controlled by the use of standard project conditions including the requirement that an archeologist be present on site when the deck is removed to insure that nothing unexpected is disturbed.

OTHER AGENCY INVOLVEMENT:

This project was not circulated to other agencies because it only involves removal of a deck and replacement with a concrete slab.

The project was not referred to the Carmel Highlands Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project does not pose any policy issues or deviation from any zoning standards. Furthermore, the project is exempt from CEQA review per Section 15301(e) of the CEQA Guidelines.

Note: The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

/s/ John Ford

John Ford, Senior Planner

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February 12, 2009

cc: Front Counter Copy; California Coastal Commission; Zoning Administrator; County Counsel; Cypress Fire Protection District; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; Laura Lawrence, Planning Services Manager; John Ford, Planner; Carol Allen; Jaime Gutierrez, Property Owner/Applicant; Ron Gertz, Agent; Planning File PLN090005.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Recommended Findings and Evidence
	Exhibit C	Recommended Conditions of Approval
	Exhibit D	Vicinity Map
	Exhibit E	Site Plans, Floor Plans, and Elevations

This report was reviewed by Laura Lawrence, Planning Services Manager.

EXHIBIT B

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 Area Land Use Plan (LUP), Monterey County Zoning Ordinance (Title 20) Part 1, and Monterey County Coastal Implementation Plan for the Carmel Area (Part 4), which designates this area as appropriate for residential development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of this application. As proposed and conditioned, no conflicts were found to exist with replacement of the deck. 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 26386 Isabella Avenue, Carmel (Assessor's Parcel Number 009-441-011-000), Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Medium Density Residential, 2 units per acre, with a Design Control District Overlay in the Coastal Zone ("MDR/2-D (CZ)"). The house is legal non-conforming with respect to site coverage, floor area ratio and off-street parking. The deck is currently 24 inches above grade and not a part of the non-conforming coverage. The replacement of the deck with a concrete slab will not affect any of the non conforming conditions. The proposed concrete slab will be lower than the deck and will maintain a maximum height of twenty four inches. This project conforms to all other zoning ordinance regulations. It simply requires an extra measure of review to allow development within 750 feet of a known archaeological resource. Conditions have been added to ensure that if any archaeological resources are found on site they will be protected, thus the project is consistent with the applicable zoning policies.
 - (c) The project planner conducted a site inspection on January 26, 2009, to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) Public Access. See Finding #6.
 - (e) Carmel Highlands Land Use Advisory Committee (LUAC): The project was not referred to the Carmel Highlands Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project does not involve any policy review or require a variance from any zoning standard. Furthermore, the project is exempt from CEQA review per Section 15301(e) of the CEQA Guidelines.
 - (f) Visual Resources: The removal of the existing deck and replacement with a stone covered concrete slab will not adversely impact any sensitive view shed. This project is part of a larger project to improve the visual condition of the house. Thus the project is in compliance with all LUP policies.
 - (g) Cultural Resources: The project includes a Coastal Development Permit to allow development within 750 feet of a known

archaeological resource. County records identify the project site is within an area of high sensitivity for prehistoric cultural resources. A preliminary archaeological report prepared for this project did not identify the potential for impacts to prehistoric resources. All project work is proposed to occur on land that has previously been disturbed and has not revealed any archaeological resources. The archaeologist will be on site during deck removal to insure there is nothing under the deck which could not previously be observed. Therefore, the potential for inadvertent impacts is limited and can be controlled by the use of standard project conditions.

- (h) 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 PLN090005.

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

- EVIDENCE:**
- (a) The subject property has been developed for over 30 years. The proposed project replaces an existing deck which provides access to the existing house. The project will not change how the site functions or is developed. The site has functioned in its current development scheme for over 30 years. The subject concrete landing will not change how the site functions.
 - (b) Technical reports prepared by outside an archaeological consultant did not find physical or environmental constraints that would indicate the site is not suitable for the use proposed. County staff concurs. The following report has been prepared:
 - i. *“Preliminary Cultural Resource Reconnaissance”* prepared by Susan Morely, Marina, January 2009.
 - (c) Staff conducted a site inspection on January 26, 2009 to verify that the site is suitable for this use.
 - (d) Materials in Project File PLN090005.

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 15301(e), Class 1 categorically exempts the minor alteration of or addition to existing private structures involving negligible expansion of use beyond that existing at the time of the lead agency’s determination.
 - (b) No adverse environmental effects were identified during staff review of the project application and during site visits on January 26, 2009.
 - (c) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN090005.
 - (d) Findings 1 and 2, 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.

EVIDENCE: 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:** **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) Findings 1, 2, 3, and 4; and supporting evidence.
(b) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN090005.

6. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (Monterey County Zoning Ordinance, Section 20.70.050.B.4). The proposed project is in conformity with the public access policies of Chapter 5 of the Carmel Area Land Use Plan, and Section 20.146.130 of the Monterey County Coastal Implementation Plan for the Carmel Area (Part 4).

EVIDENCE: (a) Figure 3 (Public Access Map) of the LUP does not identify the parcel as an area requiring current or future public access.
(b) Materials in Project File PLN090005.
(c) Site visit by the project planner on January 26, 2009.

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

EVIDENCE: (a) Board of Supervisors: Section 20.86.030 of the Monterey County Zoning Ordinance.
(b) California Coastal Commission: Section 20.86.080.A.3 of the Monterey County Zoning Ordinance.

EXHIBIT C Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: Gutierrez File No: PLN090005 Approved by: Zoning Administrator	APN: 009-441-011-000 Date: February 12, 2009
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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.		PD001 - SPECIFIC USES ONLY This Coastal Development Permit Design Approval (PLN090005) allows development within 750 feet of a known archaeological resource (removal of an existing deck and replacement with a concrete slab.) The property is located at 26386 Isabella Avenue, Carmel (Assessor's Parcel Number 009-441-011-000), Carmel Area Land Use 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 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. (RMA - Planning Department)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated.	

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2.		<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution PLN090005) was approved by the Zoning Administrator for Assessor's Parcel Number 009-441-011-000 on February 12, 2009. The permit was granted subject to seven (7) 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. (RMA - Planning Department)</p>	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.		<p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</p> <p>A qualified Archeologist shall be on site during the removal of the deck. The Archeologist shall submit confirmation of her/his presence onsite during this work and indicate what was observed. This letter shall be submitted prior to pouring the concrete slab. 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. (RMA - Planning Department)</p>	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/	
4.		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary</p>	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning	Owner/ Applicant	Upon demand of County	

<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>
		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)	Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.		Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable	
5.		PD032 - PERMIT TIME/YEAR & DATE The permit shall be granted for a time period of Two years, to expire on February 11, 2011 (RMA – Planning Department)	None	Owner/ Applicant	As stated in the conditions of approval	
6.		WR43 - WATER AVAILABILITY CERTIFICATION 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	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	

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		Peninsula Water Management District Water Release Form. (Water Resources Agency)				
7.		<p>WR40 - WATER CONSERVATION MEASURES</p> <p>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:</p> <p>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.</p> <p>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.</p> <p>(Water Resources Agency)</p>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	

END OF CONDITIONS