

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> February 26, 2009 <b>Time:</b> 1:35    P.M <b>Agenda Item No.:</b> 2	
<b>Project Description:</b> Coastal Development Permit to allow development within 750 feet of a known archaeological resource, and a Design Approval for the replacement of an existing driveway, removal of existing walkways and grill area, replacement of existing entry and walkway, replacement of windows and roof, and construction of a new patio to replace an existing 278 square foot deck.	
<b>Project Location:</b> 26290 Valley View Avenue, Carmel Point	<b>APN:</b> 009-404-009-000
<b>Planning File Number:</b> PLN080534	<b>Name:</b> Aurelio and Berta Fernandez, Property Owners
<b>Plan Area:</b> Carmel Area Land Use Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> MDR/2-D (18) (CZ) [Medium Density Residential, 2 units per acre, with a Design Control Overlay and 18 foot height limit (Coastal Zone)]	
<b>CEQA Action:</b> Categorically Exempt, per Section 15301a	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Staff recommends that the Zoning Administrator approve the Coastal Development Permit and Design Approval, 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 remodel of an existing 3,379 square foot residence located at 26290 Valley View Avenue in the Carmel Point neighborhood. The project is located on an 8,000 square foot parcel. The existing structure is considered legal nonconforming with regard to height (18 feet maximum allowed/24 feet 8 inches existing and proposed) and site coverage (35 % maximum allowed/40.1 % existing/36.6 % proposed). Legal nonconforming policies contained in the Monterey County Zoning Ordinance Title 20 Section 20.68.040 allow for the enlargement, extension, reconstruction and alterations provided those enlargements, extensions, reconstructions and alterations conform to the regulations of the district in which they are located. The proposed remodel will remove an existing deck which will decrease the site coverage by approximately 3.5 % (278 square feet). The project, as proposed, will not affect the existing ridge height and will maintain the existing nonconformity of the residence. Although the project involves development within 750 feet of a known archaeological resource, there are no significant issues given the limited extent and design of the proposed development. Also, an archaeological survey prepared for the project did not identify any potential for impacts to prehistoric resources. Therefore, the potential for inadvertent impacts is limited and can be controlled by the use of project conditions.

**OTHER AGENCY INVOLVEMENT:**

- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by the Water Resources Agency and the Planning Department have been incorporated into the condition compliance reporting plan (**Exhibit C**).

The project was not referred to the Carmel Highlands Land Use Advisory Committee for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of

Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because it does not include development requiring CEQA review, does not involve a lot line adjustment, does not require the issuance of a Variance, and does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission.

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

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January 28, 2009

cc: Front Counter Copy, California Coastal Commission, Zoning Administrator; Cypress Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Laura Lawrence, Planning Services Manager; Joseph Sidor, Planner; Carol Allen; Aurelio and Berta Fernandez, Owners/Applicants; Claudio Ortiz Design Group, Inc., Agent; Planning File PLN080534.

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 Plan, Floor Plan, and Elevations  
                  Exhibit F      Design Approval Request Form and Material Samples

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 Zoning Ordinance (Title 20) Part 4 (Coastal Implementation Plan for the Carmel Area), 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 applications. As proposed and conditioned, 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 26290 Valley View Avenue, Carmel Point (Assessor's Parcel Number 009-404-009-000), Carmel Land Use Plan, Coastal Zone. The parcel is zoned Medium Density Residential, 2 units per acre, with a Design Control District Overlay and 18 foot height limit, in the Coastal Zone ("MDR/2-D (18) (CZ)"), which allows the remodeling of single family residences as a principal use allowed with a Design Approval and development within 750 feet of a known archaeological resource as a conditional use with the approval of a discretionary permit. The project, as proposed, is consistent with the applicable zoning policies.
  - (c) The project planner conducted a site inspection on December 12, 2008, 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 LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because it does not include development requiring CEQA review, does not involve a lot line adjustment, does not require the issuance of a Variance, and does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission.
  - (f) Visual Resources: Staff conducted a site visit on December 12, 2008, to assess the potential viewshed impacts of the project and ensure consistency with applicable LUP policies. The existing residence and proposed addition are not visible from the Highway 1 public viewshed, nor public viewing areas. The project, as proposed, is consistent with the applicable policies of the LUP.
  - (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; however, 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 within or immediately adjacent to the existing developed footprint. Therefore, the potential for inadvertent impacts is limited and can be controlled by the use of standard project conditions (Condition No. 3).

- (h) Legal Nonconforming: The existing structure is considered legal nonconforming with regard to height (18 feet maximum allowed/24 feet 8 inches existing and proposed) and site coverage (35 % maximum allowed/40.1 % existing/36.6 % proposed). Legal nonconforming policies contained in the Monterey County Zoning Ordinance Title 20 Section 20.68.040 allow for the enlargement, extension, reconstruction and alterations provided those enlargements, extensions, reconstructions and alterations conform to the regulations of the district in which they are located. The proposed remodel will remove an existing deck which will decrease the site coverage by approximately 3.5 % (278 square feet). The project, as proposed, will not affect the existing ridge height and will maintain the existing nonconformity.
- (i) 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 PLN080534.

**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, Environmental Health Division, and the 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) A technical report by an outside archaeological consultant did not identify 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 Archaeological Reconnaissance”* (LIB090027), prepared by Archaeological Consulting, Salinas, California, December 30, 2008.
  - (c) Staff conducted a site inspection on December 12, 2008, to verify that the site is suitable for this use.
  - (d) Materials in Project File PLN080534.

**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(a), 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 a site visit on December 12, 2008.

- (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 PLN080534.
- (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. Zoning violation abatement costs, if any, have been paid.

**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 PLN080534.

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 Zoning Ordinance (Part 4 – Coastal Implementation Plan).

**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 PLN080534.  
(c) Site visit by the project planner on December 12, 2008.

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.

<b>EXHIBIT C</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> Fernandez <b>File No:</b> PLN080534 <b>Approved by:</b> Zoning Administrator	<b>APN:</b> 009-404-009-000 <b>Date:</b> February 26, 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.		<b>PD001 - SPECIFIC USES ONLY</b> This Coastal Development Permit and Design Approval (PLN080534) allows development within 750 feet of a known archaeological resource and the remodel of an existing 3,379 square foot two-story single family dwelling. The property is located at 26290 Valley View Avenue, Carmel Point (Assessor's Parcel Number 009-404-009-000), 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	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>
		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 permit (Resolution PLN080534) was approved by the Zoning Administrator for Assessor's Parcel Number 009-404-009-000 on February 26, 2009. The permit was granted subject to eight (8) 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	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
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. <b>(RMA - Planning Department)</b></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	



<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>
5.		<p><b>PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN</b></p> <p>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></p>	<p>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.</p>	Owner/ Applicant	Prior to the issuance of building permits.	
			<p>The lighting shall be installed and maintained in accordance with the approved plan.</p>	Owner/ Applicant	Prior to Occupancy / Ongoing	
6.		<p><b>PD032 - PERMIT TIME/YEAR &amp; DATE</b></p> <p>The permit shall be granted for a time period of three (3) years, to expire on February 26, 2012. <b>(RMA – Planning Department)</b></p>	None	Owner/ Applicant	As stated in the conditions of approval	
7.		<p><b>WR40 - WATER CONSERVATION MEASURES</b></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</p>	<p>Compliance to be verified by building inspector at final inspection.</p>	Owner/ Applicant	Prior to final building inspection/ occupancy.	

<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>
		water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. <b>(Water Resources Agency)</b>				
8.		<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.	

**END OF CONDITIONS**