

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: March 31, 2011 Time: 1:30 p.m.	Agenda Item No.:
Project Description: Design Approval to allow a remodel of an existing 2,278 square foot single family dwelling including a 965 square foot lower level family room/bedroom addition, a new 525 square foot second story master bedroom and two main floor cantelievered windows (colors and materials consisting of tan stucco siding, cedar stained wood shutters and beams, exterior stone cladding, bronze railings, copper gutters, blended multi-colored slate roofing materials); there is an existing 426 square foot detached garage that will remain. Coastal Development Permit to allow development within 750 feet of a known archaeological resource; a Variance to allow existing legal non-conforming lot coverage of 37.5% from 35% allowable lot coverage; and grading consisting of approximately 150 cubic yards of cut.	
Project Location: 26195 Scenic Road, Carmel	APN: 009-422-023-000
Planning File Number: PLN100443	Owner: Moellentine, Lon and Morley Agent: International Design Group, Inc.
Planning Area: Carmel Area Land Use Plan	Flagged and staked: No
Zoning Designation: : “MDR/2-D (18) (CZ)” [Medium Density Residential, 2 units per acre, Design Control, 18 foot height limit, Coastal Zone]	
CEQA Action: Negative Declaration	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit B**) to:

- 1) Adopt the Negative Declaration; and
- 2) Approve PLN100443, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**):

PROJECT OVERVIEW:

Since 2004, the applicants had been trying to develop on this oddly-shaped 7,175 square foot parcel that is located in the most prominent area of Scenic Road. The parcel is also located in front of the Historic Kuster house. After many hearings and an appeal of a demolition and construction of a new single family dwelling, the applicants are now proposing to remodel the existing 2,278 square foot house. Proposed construction includes a 965 square foot lower level addition that is completely below grade and a new 525 square foot second story. Although the County’s height limit is 18 feet, the height of the second story is 16 feet which is required as part of an old deed. The new second story will not affect the neighbor behind the existing structure. Also, natural colors and materials (tan stucco siding, cedar stained wood shutters and beams, exterior stone cladding, bronze railings, copper gutters, blended multi-colored slate roofing materials) will be used to blend into the character of the neighborhood. As originally built, and prior to the adoption of the Local Coastal Program, development of the site included a 2,278 square foot residence and a 426 square foot detached garage, creating building site coverage of 37.7%, that exceeds allowable 35% lot coverage. The applicants are not expanding that allowable 37.7% and are actually reducing it to 37.5%, and therefore, are requesting a Variance. Staff is recommending approval of the Variance because the additions do not affect additional lot coverage percentage.

A Draft Negative Declaration (“ND”) was prepared in accordance with CEQA and circulated for public review from February 16, 2011 to March 17, 2011. Issues that were analyzed in the Negative Declaration include: aesthetics, air quality, cultural resources, geology and soils, greenhouse gases, hydrology/water quality, noise and traffic and transportation. Evidence found that all impacts were less than significant. There are no unresolved issues.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Carmel Highlands Fire Protection District
- California Coastal Commission

Agencies that submitted comments are noted with a check mark. Conditions recommended by Water Resources Agency, Carmel Highlands Fire Protection District and Public Works Department have been incorporated into the Condition Compliance attached as Exhibit 1 to the draft resolution (**Exhibit B**).

On September 20, 2010, the Carmel Highlands Land Use Advisory Committee recommended approval (6-0) of the project as proposed. The LUAC members who had seen previous plans submitted for this location felt the new plans were a vast improvement and did not impact the scenic viewshed for this sensitive location. Dr. Bruce Meyer, owner of the historic Kuster House, complimented the applicant on plans that do not impact the scenic character of location on Scenic Road.

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

/S/ Elizabeth Gonzales

Elizabeth Gonzales, Associate Planner
(831) 755-5102, gonzalesl@co.monterey.ca.us
March 9, 2010

cc: Front Counter Copy; Zoning Administrator; Carmel Highlands Fire Protection District; Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Elizabeth Gonzales, Project Planner; Carol Allen, Senior Secretary; Moellentine, Lon and Morley, Owners; International Design Group, Inc., Agent; Planning File PLN100443

Attachments: Exhibit A Project Data Sheet
Exhibit B Draft Resolution, including:
1. Conditions of Approval
2. Site Plan, Floor Plan and Elevations, Parcel Map, Tentative Map
Exhibit C Vicinity Map
Exhibit D Advisory Committee Minutes (LUAC)
Exhibit E Negative Declaration

This report was reviewed by Laura Lawrence, Planning Services Manager

**EXHIBIT B
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

MOELLENTINE, LON AND MORLEY (PLN100443)

RESOLUTION NO. ----

Resolution by the Monterey County Zoning
Administrator:

- 1) Adopting the Negative Declaration; and
- 2) Approving Design Approval to allow a remodel of an existing 2,278 square foot single family dwelling including a 965 square foot lower level family room/bedroom addition, a new 525 square foot second story master bedroom and two main floor cantelievered windows (colors and materials consisting of tan stucco siding, cedar stained wood shudders and beams, exterior stone cladding, bronze railings, copper gutters, blended multi-colored slate roofing materials); there is an existing 426 square foot detached garage that will remain. Coastal Development Permit to allow development within 750 feet of a known archaeological resource; a Variance to allow existing legal non-conforming lot coverage of 37.5% from 35% allowable lot coverage; and grading consisting of approximately 150 cubic yards of cut.

(PLN100443, Moellentine, Lon and Morley, 26195 Scenic Road, Carmel Area Land Use Plan (APN: 009-422-023-000

The Coastal Development Permit application (PLN100443) came on for public hearing before the Monterey County Zoning Administrator on March 31, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the Monterey County General Plan,
 - Carmel Area Land Use Plan,
 - Monterey County Coastal Implementation Plan, Part 4,

- Monterey County Zoning Ordinance (Title 20)

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) Site Description. The subject site is 7,175 square feet and is located at 26195 Scenic Road, Carmel (Assessor's Parcel Number 009-422-023-000), Carmel Area Land Use Plan. The parcel is zoned Medium Density Residential/2 units per acre, Design Control Area/18-Foot Height Limit in the Coastal Zone ("MDR/2-D (18) (CZ)"). There is an existing 1-story, 2,278 square foot single family residence and 426 square foot detached garage on the property and single family homes are an allowed use in the MDR zone. A 12-foot wide, private road easement is located along the east side of the property and extends from Scenic Road to Ocean View Avenue.
- c) Applicants are proposing a Design Approval for a remodel of an existing 2,278 square foot single family dwelling including a 965 square foot lower level family room/bedroom addition, a new 525 square foot second story master bedroom and two main floor cantelievered windows. Existing 426 square foot garage will remain. Entitlements also include a Coastal Development Permit to allow development within 750 feet of a known archaeological resource and a Variance to allow existing legal non-conforming lot coverage.
- d) Design Approval Pursuant to Chapter 20.44, Design Control Zoning Districts, the project requires design review of structures to make sure they are appropriate to assure protection of the public viewshed, neighborhood character, and assure visual integrity. To ensure that the additions will not detract from the visual quality of Carmel Point, natural colors and materials (tan stucco siding, cedar stained wood shutters and beams, exterior stone cladding, bronze railings, copper gutters, blended multi-colored slate roofing materials) will be used to blend into the character of the neighborhood.
- e) Visual Resources. The proposed project is located in a visually sensitive area along Carmel Point and four existing mature cypress trees provide natural screening of the existing residence. This project has been evaluated for consistency with the Visual Resources policies of the Carmel Area Land Use Plan (CLUP) and Carmel Coastal Implementation Plan as part of a Negative Declaration (*See Finding 5*).
- f) Cultural Resources. Although there are no known resources located on the subject site, the property is located within 750 of a known archaeological resource. In addition, the Kuster house located north of the property is considered a historic structure. A Phase II Historical Assessment analyzed potential impacts of the proposed addition on the historic integrity of the Kuster House. The integrity of the Kuster House's setting and feeling was compromised long ago leaving the Kuster House with little to no integrity of setting. This project has been evaluated for consistency with the Cultural Resources policies of the Carmel Area Land Use Plan (CLUP) and Carmel Coastal Implementation Plan as part of a Negative Declaration (*See Finding 5*).
- g) The project planner conducted a site inspection on September 10, 2010 to verify that the project on the subject parcel conforms to the plans listed above.

- h) On September 20, 2010, the Carmel Highlands Land Use Advisory Committee recommended approval (6-0) of the project as proposed. The LUAC members who had seen previous plans submitted for this location felt the new plans were a vast improvement and did not impact the scenic viewshed for this sensitive location. Dr. Bruce Meyer, owner of the historic Kuster House, complimented the applicant on plans that do not impact the scenic character of location on Scenic Road.
- 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 PLN100443.

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 Highlands Fire Protection District, Parks, Public Works, Environmental Health Bureau, 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 historic, archaeological, geotechnical and geoseismic 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 independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
 - “Historic Preservation Interpretation” (LIB060156) prepared by Kent Seavey, Pacific Grove, CA, November, 2004;
 - “Phase II Assessment: Preliminary Impact Analysis” (LIB060156) prepared by Sheila McElroy, San Francisco, CA, March 16, 2006;
 - “Preliminary Archaeological Reconnaissance” (LIB060155) prepared by Archaeological Consulting, Salinas, CA, October, 2004;
 - “Geotechnical Soils-Foundation and Geoseismic Report” (LIBN060154) prepared by Grice Engineering, Inc., Pacific Grove, CA, October, 2004;
 - “Geotechnical Site Reconnaissance” (LIB070443) prepared by Haro, Kasunich & Associates, Watsonville, CA, April, 2006;
 - c) Staff received an email from Haro, Kasunich & Associates on December 21, 2010, confirming that the recommendations in the Geotechnical Site Reconnaissance have not changed as the soils have not changed since the reconnaissance.
 - d) Staff conducted a site inspection on September 10, 2010 to verify that the site is suitable for this use.
 - 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 PLN100443.

3. **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) The project was reviewed by RMA - Planning Department, Carmel Highlands Fire Protection District, Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are available for the existing structure and will continue to be available. Water is supplied by Cal Am and the structure is hooked into the Carmel Area Wastewater District (CAWD).
 - c) Preceding findings #1 and #2 and supporting evidence for PLN100443.

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:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on September 10, 2010 and researched County records to assess if any violation exists on the subject property.
 - c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100443.

5. **FINDING:** **CEQA (Neg Dec)** - On the basis of the whole record before the Monterey County Zoning Administrator, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN100443).
 - c) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Negative Declaration. The Initial Study is on file in the RMA-Planning Department and is hereby

- incorporated by reference (PLN100443).
- d) The Draft Negative Declaration (“ND) for PLN100443 was prepared in accordance with CEQA and circulated for public review from February 16, 2011 to March 17, 2011 (SCH #2007071027). Issues that were analyzed in the Negative Declaration include: aesthetics, air quality, cultural resources, geology and soils, greenhouse gases, hydrology/water quality, noise and traffic and transportation.
 - e) Conditions of Approval are incorporated to ensure compliance during project implementation and is hereby incorporated herein by reference as **Exhibit 1**.
 - f) Evidence that has been received and considered includes: the application, technical studies/reports (*see Finding 2/Site Suitability*), staff reports that reflect the County’s independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department (PLN100443) and are hereby incorporated herein by reference.
 - g) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. For purposes of the Fish and Game Code, all land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
 - h) No comments from the public were received.
 - i) The Monterey County Planning Department, located at 168 W. Alisal, Second Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

5. **FINDING: PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 of the Public Access Map in the Carmel Area Land Use Plan).
 - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100443
 - e) The project planner conducted a site inspection on September 10, 2010.

6. **FINDING: VARIANCE (Authorized Use)** – The Variance shall not be granted for

a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

- EVIDENCE:**
- a) The property has a zoning designation of “MDR/2-D (18) (CZ)” Medium Density Residential, 2 units per acre, Design Control, 18 foot height limit, Coastal Zone. The authorized use is consistent with a residential use.
 - b) In accordance with Section 20.12.060 of the Monterey County Coastal Implementation Plan (Part 1), floor area ratio (FAR) in the MDR/2 Zoning District shall not exceed 45% while building site coverage shall not exceed 35%. However, the residence was constructed prior to the adoption of the Local Coastal Program (LCP); creating a building site coverage of 37.7%, and creating a legal nonconforming structure, thus authorizing the use. Floor area ratio does not exceed allowable 45%.
 - c) The applicants are not asking for a special privilege; but due to size, shape and location of the structure, requests to maintain existing lot coverage created prior to the adoption of the LCP. They are not expanding that allowable 37.7% and are reducing it to 37.5% (.2%).
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100443.

7. **FINDING:** **VARIANCE (Special Circumstances)** - Because of special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, the strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under identical zoning classification.

- EVIDENCE:**
- a) Section 20.12.060 of Monterey County Code requires a building site coverage maximum of 35%. The intent of this regulation is to limit the amount of square footage on a lot to preserve natural views out on the Carmel Point.
 - b) As originally built, and prior to the adoption of the Local Coastal Program, development of the site included a 2,278 square foot residence and a 426 square foot detached garage, creating building site coverage of 37.7%, thus creating a legal nonconforming structure. Proposed construction includes a 965 square foot lower level addition that is completely below grade with a 525 square foot second story. These additions do not affect the lot coverage percentage. An existing 9 square foot planter will be removed, thereby reducing the lot coverage to 37.5%. Due to the limited abilities for development on this highly visual parcel, there is a special circumstance that would allow the existing legal nonconforming site coverage to continue.
 - c) This parcel is oddly shaped with two right-of-ways which restricts development. Setback off Scenic Road is 20 feet; the parcel is considered a corner lot key lot which means the private road easement has a 6 foot setback requirement. Neither will be affected by the proposed project. The application requests a remodel of the existing structure with minor additions that do not impact the visual resources and maintains the scenic character of the neighborhood.
 - d) There are special circumstances on the site that warrant a variance to allow the existing legal nonconforming building site coverage provided

there is no special privilege (*Finding 8*) and it is an authorized use (*Finding 6*).

- e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100443.
- f) The project planner conducted a site inspection on September 10, 2010 to verify the circumstances related to the property.

8. **FINDING:** **VARIANCE (Special Privileges)** - The variance shall not constitute a grant of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.

- EVIDENCE:**
- a) Assessors' Records indicate that the residence was constructed prior to certification of the Local Coastal Program. As originally built development of the site included a 2,278 square foot residence and a 426 square foot detached garage, creating building site coverage of 37.7%, thus creating a legal nonconforming structure.
 - b) Pursuant to Section 20.68.020.A, no such land use shall be expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established. Proposed construction includes a 965 square foot lower level addition that is completely below grade with a 525 square foot second story. These additions do not affect the lot coverage percentage nor do they expand the footprint of the house. An existing 9 square foot planter will be removed, thereby reducing the lot coverage to 37.5%.
 - c) Staff recognizes that a number of houses in the vicinity exceed FAR and building site coverage, as these approvals were granted prior to adoption on the 1983 Local Coastal Program (LCP). There is no grant of special privilege as the County created the legal nonconforming site coverage and a Variance is required because that site coverage exceeds current standards in Monterey County Code (Title 20).
 - d) The project planner conducted a site inspection on September 10, 2010, to identify circumstances related to other property in the vicinity and in the same zoning district.

9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission

- EVIDENCE:**
- a) Section 20.86.030 Monterey County Zoning Ordinance (Board of Supervisors).
 - b) Section 20.86.080.A.3 Monterey County Zoning Ordinance (Coastal Commission). The project is subject to appeal by/to the California Coastal Commission because the project includes conditional uses (Coastal Development Permit) to allow development on a property within 750 of a known archaeological resource.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Adopt the Negative Declaration; and

- B. Approve Design Approval to allow a remodel of an existing 2,278 square foot single family dwelling including a 965 square foot lower level family room/bedroom addition, a new 525 square foot second story master bedroom and two main floor cantelievered windows (colors and materials consisting of tan stucco siding, cedar stained wood shutters and beams, exterior stone cladding, bronze railings, copper gutters, blended multi-colored slate roofing materials); there is an existing 426 square foot detached garage that will remain. Coastal Development Permit to allow development within 750 feet of a known archaeological resource; a Variance to allow existing legal non-conforming lot coverage of 37.5% from 35% allowable lot coverage; and grading consisting of approximately 150 cubic yards of cut .

PASSED AND ADOPTED this 31st day of March, 2011 upon motion of

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON _____

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE _____

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.