

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> June 28, 2012 <b>Time:</b> 1:30 P.M.	<b>Agenda Item No.:</b> 5
<b>Project Description:</b> CONTINUED FROM JUNE 14, 2012. Consider a Minor and Trivial Amendment to a Combined Development Permit (PLN110254) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow the demolition of an attached 418 square foot two-car garage and a 427 square foot bedroom/bath/laundry room; the construction of an attached 410 square foot two-car garage, a 427 square foot bedroom/bath/laundry room, and an 802 square foot observation deck on the roof of the garage/bedroom/bath/laundry room; an interior remodel of a 3,244 square foot two-story single family dwelling; the installation of an above-ground residential generator 4.5 feet tall by 2.5 feet wide with a sound attenuation enclosure; stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio (from 54% to 51%; 45% allowable) by reducing the internal second story floor area by 182 square feet and the garage by 8 square feet for a total of 190 square feet.	
<b>Project Location:</b> 26443 Scenic Road, Carmel	<b>APN:</b> 009-471-017-000
<b>Planning File Number:</b> PLN120165	<b>Owner:</b> Victoria Fash <b>Agent:</b> Jun Sillano, International Design Group
<b>Planning Area:</b> Carmel Area Land Use Plan	<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> "MDR/2-D (18)(CZ)" [Medium Density Residential, 2 units per acre with a Design Control Overlay District and an 18-foot height limit (Coastal Zone)]	
<b>CEQA Action:</b> Categorically Exempt per Section 15301 (e)	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Zoning Administrator adopt a resolution to:

- 1) Find the project Categorically Exempt per Section 15301 (e), class 1; and
- 2) Approve the amendment to the Combined Development Permit consisting of 1) a Coastal Administrative Permit and Design Approval for the demolition of the garage/bedroom/bath/laundry room, the remodel of the two-story single family dwelling, the construction of an attached two-car garage/bedroom/bath/laundry room and an observation deck; the installation of generator with a sound attenuation enclosure; stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio from 54% to 51%, the based on the findings and evidence and subject to the conditions of approval in **Exhibit B**.

### PROJECT OVERVIEW:

The subject property is located at 26443 Scenic Road, Carmel and is zoned Medium Density Residential. On November 10, 2011, the Zoning Administrator approved a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow a new 802 square foot observation deck on the roof of the existing garage/bedroom/bath/laundry room and an interior remodel of a 3,244 square foot two-story single family dwelling with an attached 418 square foot two-car garage; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio (from 54% to 51%; 45% allowable) by reducing the internal second story floor area by 182 square feet. Resolution 11-052 is attached as **Exhibit D**.

Once construction began on the project, the contractor discovered that the walls in the garage, bedroom, bathroom, and laundry room were rotted and needed to be completely removed. The new walls will be constructed in the same location as the previous walls with the exception of a portion of the garage wall along the side setback. A portion of the garage wall was legal non-conforming on the side setback. Because the garage was demolished, the new garage will need to conform to the required side setback on 5 feet. This results in the removal of approximately 8 square feet in the garage. In the original approval, the exterior materials and colors proposed were to match the existing Carmel stone exterior. Since the approval, the exterior stone on the house has been completely removed. The Design Approval is being revised to allow colors and materials similar to the previous approval: walls consisting of Carmel limestone and beige plaster (Kelly Moore 562), bronze corbels, dark brown metal clad wood windows and exterior doors, tempered glass railing on the deck, and copper gutters & downspouts. The property owner has also requested to add an electric generator on the rear of the property inside a sound attenuation enclosure.

In addition, a complaint was made by a neighboring concerning the construction noise and the dust generated by the demolition and remodel of the house (**Exhibit E**). In the letter, the neighbor requested that the revised project be conditioned to require compliance with limits set by the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Health and Safety (NIOSH) during construction activities. These are existing regulations that govern the health and safety of workers. The Monterey Bay Unified Air Pollution Control District also has existing rules that prohibit sources from creating public nuisances while operating within the Monterey Bay Unified Air Pollution Control District. Rule 402, Part 3 states: “No person shall discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public; or which endanger the comfort, repose, health, or safety of any such persons or the public; or which cause, or have a natural tendency to cause, injury or damage to business or property.” The RMA-Planning Department has no nexus to condition the project to comply with regulations already in place to ensure the health and safety of workers or air quality. However, the property owner has voluntarily agreed to require the contractor to use a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter during stone cutting activities. This requirement has been included as part of the project description at the request of the agent Jun Sillano.

The Minor and Trivial Amendment will add the following components to the project:

- Demolition of an attached 418 square foot two-car garage;
- Demolition of a 427 square foot bedroom/bath/laundry room;
- Construction of an attached 410 square foot two-car garage;
- Construction of a 427 square foot bedroom/bath/laundry room;
- Installation of an above-ground residential generator 4.5 feet tall 2.5 feet wide to include a sound attenuation enclosure;
- Replacement of all existing exterior materials in conformance with the colors and materials in approved under PLN110254; and
- Stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter.

Minor and trivial amendments to previously-approved Coastal Administrative Permits and Coastal Development Permits may be approved by the Director of Planning if considered to be of a minor or trivial nature Although the RMA-Planning Department considers the project to be of a minor and trivial nature, the neighbor requested that the amended project be considered at a public hearing rather than administratively.

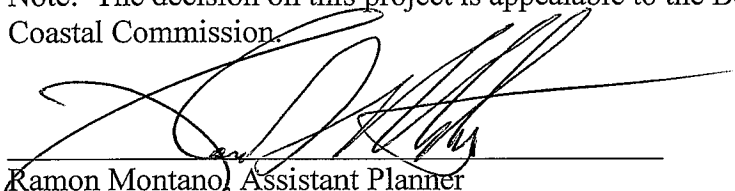
**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

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

Agencies that submitted comments are noted with a check mark ("√"). New conditions recommended by the RMA-Planning Department and RMA-Public Works Department have been incorporated into the Condition Compliance Plan attached to the draft resolution (**Exhibit B**).

The original project was referred to the Carmel Unincorporated/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, the original application did warrant referral to the LUAC because the project includes a Design Approval that requires approval at a public hearing. The LUAC supported the project by a unanimous vote with a recommended condition. The revised project was not sent back to the LUAC since there was no change to the overall design, materials, and colors of the revised project.

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



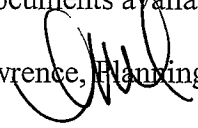
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Ramon Montano, Assistant Planner  
(831) 755-5169, montanor@co.monterey.ca.us  
May 25, 2012

cc: Front Counter Copy; Zoning Administrator; Cypress Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Ramon Montano, Project Planner; Carol Allen, Senior Secretary; Victoria Fash, Owner; International Design Group, Agent; Annette S. Thorn MD MPH, neighbor; The Open Monterey Project; LandWatch; Planning File PLN120165.

Attachments: Exhibit A      Project Data Sheet  
                  Exhibit B      Draft Resolution, including:  
                                    • Conditions of Approval  
                                    • Site Plan, Floor Plan and Elevations  
                  Exhibit C      Vicinity Map  
                  Exhibit D      Resolution 11-052  
                  Exhibit E      Letter and documents submitted by neighbor Annette Thorne, MD MPH (documents available electronically upon request)

This report was prepared 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:

**FASH (PLN120165)**

**RESOLUTION NO. ----**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Finding the project Categorically Exempt per Section 15301 (e); and
- 2) Approving the Minor and Trivial Amendment to a Combined Development Permit (PLN110254) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow the demolition of an attached 418 square foot two-car garage and a 427 square foot bedroom/bath/laundry room; the construction of an attached 410 square foot two-car garage, a 427 square foot bedroom/bath/laundry room, and an 802 square foot observation deck on the roof of the garage/bedroom/bath/laundry room; an interior remodel of a 3,244 square foot two-story single family dwelling; the installation of an above-ground residential generator 4.5 feet tall 2.5 feet wide with a sound attenuation enclosure; stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio (from 54% to 51%; 45% allowable) by reducing the internal second story floor area by 182 square feet and the garage by 8 square feet for a total of 190 square feet.

[PLN120165, Fash, 26443 Scenic Road, Carmel, Carmel Area Land Use Plan (APN: 009-471-017-000)]

**The Fash application (PLN120165) came on for public hearing before the Monterey County Zoning Administrator on June 14, 2012. 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 County has received and processed an amendment to PLN110254. The amended 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 1982 Monterey County General Plan;
  - Carmel Area Land Use Plan;
  - Monterey County Coastal Implementation Plan Part 4; and
  - 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) An application for a Minor and Trivial Amendment was submitted on March 30, 2012.
- c) The property is located at 26443 Scenic Road, Carmel (Assessor's Parcel Number 009-471-017-000), Carmel Area Land Use Plan. The parcel is zoned "MDR/2-D (18) (CZ)" [Medium Density Residential, 2 units per acre with a Design Control Overlay District and an 18-foot height limit (Coastal Zone)], which allows for the remodel and an addition to a single-family dwelling. Therefore, the project is an allowed land use for this site.
- d) On November 10, 2011, the Zoning Administrator approved a Combined Development Permit (Resolution No. 11-052) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow a new 802 square foot observation deck on the roof of the existing garage/bedroom/bath/laundry room and an interior remodel of a 3,244 square foot two-story single family dwelling with an attached 418 square foot two-car garage; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio (from 54% to 51%; 45% allowable) by reducing the internal second story floor area by 182 square feet.
- e) The Minor and Trivial Amendment adds the following projects components:
- Demolition of an attached 418 square foot two-car garage;
  - Demolition of a 427 square foot bedroom/bath/laundry room;
  - Construction of an attached 410 square foot two-car garage;
  - Construction of a 427 square foot bedroom/bath/laundry room;
  - Installation of an above-ground residential generator 4.5 feet tall 2.5 feet wide to include a sound attenuation enclosure;
  - Replacement of all existing exterior materials in conformance with the colors and materials in approved under PLN110254; and
  - Stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter.

These modifications are subject to compliance with the previously applied findings, evidence, and conditions of Combined Development Permit PLN110254 (Resolution No. 11-052).

- f) The subject property is located within a Design Control District, which provides for the regulation of location, size, configuration, materials, and colors of structures where the design review is appropriate to assure protection of the public viewshed, neighborhood character, and visual integrity of certain developments. The colors and materials for the

amended project will be similar to what previously existed and consist of Carmel limestone and beige plaster (Kelly Moore 562) walls, bronze corbels, dark brown metal clad wood windows and exterior doors, tempered glass railing on the deck, and copper gutters & downspouts.

- g) All of the conditions of approval from PLN110254 apply to this permit. The following conditions have been previously cleared: Condition Nos. 1, 3, 6, and 9 (On-Going) and Condition Nos. 2, 5, 7, and 8 (Met). Condition No. 4 (Indemnification Agreement) still needs to be met and will be carried forward in the amended permit.
- h) The following conditions of approval have been incorporated into the amended project: PD001 (Specific Uses Only); PD002 (Permit Approval Notice); PD004 (Indemnification Agreement); PD032(A) (Permit Expiration); PDSP001 (Sound Attenuation); and PW0044 (Construction Management Plan).
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN120165 and PLN110254.

2. **FINDING:**

**AMENDED PERMIT** – The project as amended is consistent with the previously approved permit and does not cause impacts not already assessed in original permit action. As approved and amended, PLN120165 will become and be referred to as the approved permit.

**EVIDENCE:**

- a) The project is constant with the previous approval as it will reconstruct the garage/bedroom/bath/laundry room in the manner approved under PLN110254. The amended permit corrects a violation of the original conditions which did not provide for the demolition of the existing garage/bedroom/bath/laundry room.
- b) The previously approved changes to the garage did not include a variance to the setback requirement. Because the garage was demolished, it will be required to be reconstructed consistent with the site development standards under Section 20.12.060.C.1.a.
- c) The colors and materials for the amended project will be similar to what previously existed and consist of Carmel limestone and beige plaster (Kelly Moore 562) walls, bronze corbels, dark brown metal clad wood windows and exterior doors, tempered glass railing on the deck, and copper gutters & downspouts.
- d) The installation of the above-ground residential generator includes a sound attenuation enclosure to minimize noise impacts to neighboring properties. See Condition No. 6.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN120165 and PLN110254.

3. **FINDING:**

**CEQA** – The Minor and Trivial Amendment does not require subsequent environmental review pursuant to CEQA Guidelines Section 15162.

**EVIDENCE:**

- a) The original project was categorically exempt from environmental review per California Environmental Quality Act (CEQA) Guidelines Section 15301 (e) Class 1 and no unusual circumstances were identified

- to exist for the amended project.
- b) No substantial changes are proposed requiring rescission of the categorical exemption. See Findings 1 and 2.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on February 28, 2012.
  - d) Construction noise and the dust generated by the demolition and remodel of the house are controlled through Condition No. 9 in Resolution No. 11-052 which limits hours of construction between the hours of 8:00 am and 5:00 pm, Monday through Friday, Condition No. 7 attached hereto which requires a Construction Management Plan, and through existing regulations by the Monterey Bay Unified Air Pollution Control District (MBUAPCD). MBUAPCD Rule 402, Part 3 states: “No person shall discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public; or which endanger the comfort, repose, health, or safety of any such persons or the public; or which cause, or have a natural tendency to cause, injury or damage to business or property.”
  - e) The RMA-Planning Department has no nexus to condition the project to comply with regulations already in place to ensure the health and safety of workers or air quality. However, the property owner has voluntarily agreed to require the contractor to use a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter during stone cutting activities. This voluntary requirement is reflected in the project description.
  - f) 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 Files PLN110254 and PLN120165.

4. **FINDING:** **REQUEST FOR PUBLIC HEARING** – Consideration of the request for the amendment has been carried out pursuant to Monterey County Code Section 20.84.040.A of Monterey County Code Title 20 (Zoning).

- EVIDENCE:**
- a) Minor and trivial amendments to previously-approved Coastal Administrative Permits and Coastal Development Permits may be approved by the Director of Planning if considered to be of a minor or trivial nature. Although the RMA-Planning Department considers the project to be of a minor and trivial nature, the neighbor requested that the amended project be considered at a public hearing rather than administratively. The matter was referred to a public hearing to be heard by the Zoning Administrator on June 14, 2012.
  - b) 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 Files PLN110254 and PLN120165.

5. **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 of the 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 it includes non-exempt development that requires a Coastal Development Permit, which is a conditional use.

**DECISION**

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

1. Find the project Categorically Exempt per Section 15301 (e); and
2. Approve the Minor and Trivial Amendment to a Combined Development Permit (PLN110254) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow the demolition of an attached 418 square foot two-car garage and a 427 square foot bedroom/bath/laundry room; the construction of an attached 410 square foot two-car garage, a 427 square foot bedroom/bath/laundry room, and an 802 square foot observation deck on the roof of the garage/bedroom/bath/laundry room; an interior remodel of a 3,244 square foot two-story single family dwelling; the installation of an above-ground residential generator 4.5 feet tall 2.5 feet wide with a sound attenuation enclosure; stone cutting using a wet saw in a negative pressure enclosure vented to the outside through a HEPA filter; and 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and a Variance to exceed floor area ratio (from 54% to 51%; 45% allowable) by reducing the internal second story floor area by 182 square feet and the garage by 8 square feet for a total of 190 square feet, in general conformance with the attached sketch and subject to the attached conditions and the conditions in PLN110254 (Resolution No. 11-052), all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June by:

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Jacqueline Onciano, 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.