

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> April 30, 2015	<b>Agenda Item No.:</b> 3
<b>Project Description:</b> Deny the Variance to increase lot coverage from 15% to 21%; and a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.	
<b>Project Location:</b> 87 Yankee Point Drive, Carmel	<b>APN:</b> 243-153-007-000
<b>Planning File Number:</b> PLN140354	<b>Owner:</b> Jordan, William and Susan <b>Applicant:</b> John Bridges, Attorney
<b>Planning Area:</b> Carmel Area Land Use Plan	<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> "LDR/1-D (20) (CZ)" [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone]	
<b>CEQA Action:</b> Statutorily Exempt per Section 15207 (a) of the CEQA Guidelines	
<b>Department:</b> RMA-Planning	

### RECOMMENDATION:

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

- 1) Find the project Statutorily Exempt per Section 15270 (a) of the CEQA Guidelines; and
- 2) Deny the Variance and Coastal Administrative Permit PLN140354, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**).

### PROJECT OVERVIEW:

The project is a request for a Variance to increase lot coverage from 15% to 21%; and a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.

On February 26, 2015, this project came before the Zoning Administrator with the request for a Variance to exceed lot coverage. The Zoning Administrator directed staff to come back with additional information on the neighborhood. The information requested included sizes of lots, sizes of houses, number of bedrooms, number of second stories and any granted variances that exceeded the requested 18% lot coverage. The project was continued to March 26, 2015.

On March 26, 2015, after reviewing the additional information presented, the Zoning Administrator directed staff to prepare a Resolution to deny the project on the basis that there were no special circumstances to allow a variance and that in doing so, would create a special privilege for the applicant. The project was continued to April 9, 2015.

At the April 9, 2015 hearing, the Zoning Administrator informed staff she had not received the staff report as of that day and, therefore, was not able to make a decision. The project was continued to April 30, 2015.

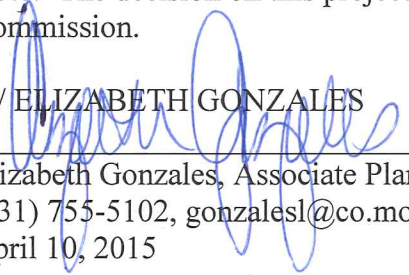
**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

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

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by] have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).

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

/S/ ELIZABETH GONZALES

  
Elizabeth Gonzales, Associate Planner  
(831) 755-5102, gonzales1@co.monterey.ca.us  
April 10, 2015

cc: Front Counter Copy; Zoning Administrator ; Carmel Highlands Fire Protection District; RMA-Public Works Department; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; John Ford, RMA Services Manager; Elizabeth Gonzales, Project Planner; William and Susan J Jordan, Owner; John Bridges, Attorney; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); Planning File PLN140354

Attachment : Exhibit A      Draft Resolution

This report was reviewed by John Ford, Planning Services Manager 

## DRAFT RESOLUTION

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

In the matter of the application of:

**WILLIAM AND SUSAN J JORDAN (PLN140354)**

**RESOLUTION NO. ----**

Adopt a Resolution by the Monterey County Zoning Administrator:

- 1) Finding the project Statutorily Exempt per Section 15270 (a) of the CEQA Guidelines; and
- 2) Denying the Variance to increase lot coverage from 15% to 21%; and a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.

[PLN140354, William and Susan J Jordan, 87 Yankee Point Drive, Carmel, Carmel Area Land Use Plan (APN: 243-153-007-000)]

**The Jordan Variance application (PLN140354) came on for public hearing before the Monterey County Zoning Administrator on February 26, 2015, March 26, 2015, April 9, 2015 and April 30, 2015. 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:** **PROJECT DESCRIPTION** – The proposed project requests a Variance to allow an increase to lot coverage from 15% to 21%; a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.  
**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140354.
2. **FINDING:** **INCONSISTENCY** – The Project, as designed, is inconsistent 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;
- Monterey County Zoning Ordinance (Title 20);

Conflicts were found to exist with the Monterey County Zoning Ordinance (Title 20) site development standards (lot coverage).

- b) The property is located at 87 Yankee Point Drive, Carmel (Assessor's Parcel Number 243-153-007-000), Carmel Area Land Use Plan. The parcel is zoned "LDR/1-D (20) (CZ)" [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone]. Designating this area as Low Density Residential (LDR) with a 1 acre parcel minimum and 15% lot coverage maximum.
- c) The Carmel Area Land Use Plan (CLUP) was adopted in October, 1982. Most of the parcels in the area are less than 1 acre and became legal nonconforming as to lot size.
- d) The subject site is legal nonconforming with respect to coverage in that there is an existing 3,291 square foot house on the property resulting in 18% coverage. This already exceeds the LDR coverage limitation of 15%. A Variance request to allow an increase to lot coverage from allowable 15% to 21% is also inconsistent with the Variance policies (*See Findings #7, #8, #9*).
- e) The project planner conducted a site inspection on June 27, 2014 to verify that the project on the subject parcel conforms to the plans listed above.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140354.

3. **FINDING:** **PROCESS** – The County has processed the subject Variance and Coastal Administrative Permit application (PLN140354/William and Susan Jordan) in compliance with Monterey County procedures.
- EVIDENCE:**
- a) On February 26, 2015, "Applicants", William and Susan Jordan applied for a Variance to increase lot coverage from 15% to 21%; and a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.
  - b) Pursuant to Section 20.78.030 (Monterey County Code), the Zoning Administrator is the appropriate authority to hear and decide all applications for Variances. On February 26, 2015, this project came before the Zoning Administrator with the request for a Variance to exceed lot coverage. The Zoning Administrator directed staff to come back with additional information about the neighborhood. The information requested included sizes of lots, sizes of houses, number of bedrooms, number of second stories and any variances that exceeded the existing structure's 18% lot coverage. The project was continued to March 26, 2015.
  - c) On March 26, 2015, after reviewing the additional information presented, the Zoning Administrator directed staff to prepare a Resolution to deny the project on the basis that there were no special circumstances to allow a variance and that in doing so, would create a special privilege for the applicant. The project was continued to April 9, 2015.

- d) At the April 9, 2015 hearing, the Zoning Administrator informed staff she had not received the staff report until that day and, therefore, was not able to make a decision. The project was continued to April 30, 2015.

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 and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on June 27, 2014 and researched County records to assess if any violation exists on the subject property. No violations were discovered.
5. **FINDING:** **CEQA (Exempt):** - The project is statutorily 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 15207 (a), statutorily exempts projects which a public agency rejects or disapproves.
6. **FINDING:** **VARIANCE (SPECIAL CIRCUMSTANCES)** – The variance cannot be granted because there are not special circumstances applicable to the subject property, related to the size, shape, topography, location or surroundings.
- EVIDENCE:**
- a) The parcel is zoned “LDR/1-D (20) (CZ)” Low Density Residential/1 unit per acre-Design Control District, with a 20 foot height limit in the Coastal Zone. The parcel is approximately 18,753 square feet (.43 acres). Allowable maximum lot coverage is 15%. Existing lot coverage is 18%. When the Carmel Area Land Use Plan (CLUP) was adopted in October, 1982, most of the parcels that were less than 1 acre became legal nonconforming as to lot coverage.
  - b) The property does not have any unique characteristics which preclude development as reflected by an existing 3,291 square foot house located on the property.
  - c) Research of the neighborhood shows that this is one of the larger lots and larger homes in the immediate area. Research shows six variances were granted in the immediate area to exceed allowable lot coverage. The highest lot coverage granted from these variances is 17.4%. The existing Jordan home has a lot coverage of 18% and the request is for 21%. Of the six variances, four of them are to allow second stories, on legal nonconforming structures.
  - d) This applicant's variance justification stated that this a two bedroom home and the applicants are being deprived of a third bedroom and that other houses in the vicinity have more bedrooms. However, research showed that out of 24 homes within the immediate vicinity, 8 of them are two bedroom homes, 9 of these are three bedroom homes and 7 of them have 4 bedrooms. There is sufficient area within the 3,291 square

foot structure to remodel with additional bedrooms.

- e) In 2013, prior to the Jordans owning the property, the previous owner obtained a building permit to remodel the interior to include enlarging the kitchen and enlarging two bathrooms by removing the third bedroom.

7. **FINDING:** **VARIANCE (SPECIAL PRIVILEGES)** – The variance would constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

- EVIDENCE:**
- a) The property has a zoning designation of “LDR/1-D (20) (CZ)” [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone].
  - b) Granting a variance to allow an increase to existing lot coverage from 18% to 21% in order to construct a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling is not necessary to allow development of the property and this would constitute a grant of special privilege.
  - c) The Zoning Ordinance limits coverage to 15% and the highest lot coverage variance granted within the area is 17.4%.
  - d) The subject property already enjoys a larger home than other properties in the neighborhood. The existing 18% coverage exceeds what others enjoy.
  - e) Allowing a Variance to exceed the allowable lot coverage to 21%, much greater than any other granted variance within the neighborhood, would create a special privilege and would disrespect the intent of a Variance in the Zoning Ordinance.

8. **FINDING:** **VARIANCE (AUTHORIZED USE)** – The variance would not be granted for a use or activity which is not otherwise expressly authorized by the LDR Zoning District.

- EVIDENCE:**
- a) The parcel has a zoning designation of “LDR/1-D (20) (CZ)” [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone], which allows the construction and use of a single-family dwelling, accessory structures and associated site improvements such as those proposed by the project applicant. Evidence has shown that the applicants can build a second story and maintain the existing legal nonconforming 18% lot coverage. There are currently 11 second story structures within the immediate vicinity.

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

- EVIDENCE:**
- a) Section 20.86.030 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

### **DECISION**

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

1. Find the project Statutorily Exempt per Section 15270 (a) of the CEQA guidelines; and;

2. Deny the Variance to increase to lot coverage from 15% to 21%; and a Coastal Administrative Permit and Design Approval for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling.

**PASSED AND ADOPTED** this 30th day of April, 2015 upon motion of:

\_\_\_\_\_  
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 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.

Form Rev. 5-14-2014