

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> April 28, 2010 Time: 9:00 A.M.	<b>Agenda Item No.:</b> 1
<b>Project Description:</b> Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%.	
<b>Project Location:</b> 25476 Flanders Drive, Carmel	<b>APN:</b> 015-112-007-000
<b>Planning File Number:</b> PLN090200	<b>Owners:</b> Gustavo Gonzalez and Barbara Smith <b>Agent:</b> Shandell Brunk, Lombardo and Gilles
<b>Planning Area:</b> Greater Monterey Peninsula Area Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> "MDR/1-D" (Medium Density Residential, 1 Unit per Acre with Design Control Overlay)	
<b>CEQA Action:</b> Categorically Exempt per Sections 15301(e), 15303(e) and 15304(c)	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Categorically exempt PLN090200 per Sections 15301(e), 15303(e) and 15304(c);
- 2) Approve PLN090200, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**); and
- 3) Approve a waiver of code enforcement fees for the Use Permit.

**PROJECT OVERVIEW:**

The applicant requests an after-the-fact Use Permit to allow development on a slope that exceeds 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on the front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%. The applicant also requests a waiver of Code Enforcement fees. See **Exhibit B** for a detailed discussion of the project and related issues.

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

- RMA - Public Works Department
- √ Environmental Health Division
- √ Water Resources Agency
- √ Cypress Fire Protection District

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by Environmental Health, Water Resources Agency and Cypress Fire Protection District have

been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolution (**Exhibit C**).

The project was heard by the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) on February 3, 2010. The LUAC recommended approval of the project as proposed by a vote of 4 – 0 with the recommendation that hydrology be carefully considered as there were concerns about water percolation in front of the lot.

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



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April 15, 2010

cc: Front Counter Copy; Planning Commission; Cypress Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Laura Lawrence, Planning Services Manager; Delinda Robinson, Project Planner; Carol Allen, Senior Secretary; Gustavo Gonzalez and Barbara Smith, Owner; Shandell Brunk, Agent; Planning File PLN090200

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Project Discussion
	Exhibit C	Draft Resolution, including: 1. Conditions of Approval 2. Site Plan
	Exhibit D	Vicinity Map
	Exhibit E	Advisory Committee Minutes
	Exhibit F	Notice of Violation
	Exhibit G	Fee Waiver Request
	Exhibit H	Fee Waiver Policy



This report was reviewed by Laura Lawrence, Planning Services Manager

**Exhibit A**  
**Project Information for (File PLN090200)**

<b>Project Title:</b> GONZALEZ	<b>Primary APN:</b> 015-112-007-000
<b>Location:</b> 25476 FLANDERS DR CARMEL	<b>Coastal Zone:</b> NO
<b>Applicable Plan:</b> GREATER MONTEREY PENINSULA	<b>Zoning:</b> MDR/1-D
<b>Permit Type:</b> USE PERMIT	<b>Plan Designation:</b> RESIDENTIAL, 1 UNIT/ACRE
<b>Environmental Status:</b> EXEMPT	<b>Final Action Deadline:</b> 05/07/2010
<b>Advisory Committee:</b> GREATER MONTEREY PENINSULA LUAC	

**Project Site Data:**

<b>Lot Size:</b> 18,067 SF	<b>Coverage Allowed:</b> 35%
	<b>Coverage Proposed:</b> 23%
<b>Existing Structures (sf):</b> 4,141 SF	<b>Height Allowed:</b> 30'
<b>Proposed Structures (sf):</b> 0	<b>Height Proposed:</b> 30'
<b>Total Square Feet:</b> 4,141 SF	<b>FAR Allowed:</b> N/A
	<b>FAR Proposed:</b> N/A

**Resource Zones and Reports**

<b>Environmentally Sensitive Habitat:</b> NONE	<b>Soils/Geo. Report #:</b> LIB090446
<b>Botanical Report #:</b> NONE	<b>Geologic Hazard Zone:</b> IV
<b>Forest Mgt. Report #:</b> NONE	<b>Geologic Report #:</b> NONE
<b>Archaeological Sensitivity Zone:</b> MODERATE	<b>Traffic Report #:</b> NONE
<b>Archaeological Report #:</b> NONE	
<b>Fire Hazard Zone:</b> HIGH/VERY HIGH	

**Other Information:**

<b>Water Source:</b> Public Water System	<b>Sewage Disposal (method):</b> Septic
<b>Water District/Company:</b> Cal-Am	<b>Sewer District Name:</b> N/A
<b>Fire District:</b> Cypress	<b>Grading (cubic yds):</b> 0
<b>Tree Removal (Count/Type):</b> 0	

## **EXHIBIT B PROJECT DISCUSSION**

### **Project Description and Setting**

The project applicant requests an after-the-fact Use Permit to allow development on a slope that exceeds 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on the front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%. In addition, the applicant requests approval for the waiver of the code enforcement fees for the Use Permit. This planning file is related to Building Permit No. BP072747.

The property is located at 25476 Flanders Drive, Carmel, east of Highway 1 between Whitman Circle and Row Place. The site is bordered by medium residential uses to the north, south and east, and is located near the rear of Carmel High School to the west. The properties on the opposite side of Flanders back onto Hatton Canyon. This parcel is zoned Medium Density Residential (MDR/1-D) and is approximately 18,067 square feet. It is subject to the requirements of the Greater Monterey Peninsula Area Plan and Title 21 – Inland Zoning Ordinance.

This parcel slopes upward from Flanders Drive, rising approximately 40 feet from the southeast corner to the northwest corner of the property. In addition, the road right-of-way between the edge of Flanders and the southern property line rises from 9 to 15 feet. Existing permitted development on the property includes one single-family residence, one attached garage with a guesthouse above it. The existing residence and guesthouse are served by the California-American Water Company and an individual on-site septic system.

### **Project Issue**

Design Approval DA060147 was originally submitted in March 2006 as a request for a new two-car garage and a guesthouse addition. In March 2007, the project was amended to include the demolition of the existing guesthouse, carport and more than 50% of the existing residence and the construction of a new garage with guesthouse above and a new residence. The Design Approval was approved by the Zoning Administrator in August 2007. Because the project only required Design Approval, plans were never routed to any department other than Planning until the application for the building permit (BP072747) for the new house, guesthouse and garage was submitted. Upon review of BP072747, the Health Department required that a new onsite septic system be installed for the project. Because of site constraints, including the size and shape of the lot and setback requirements, the only feasible location for the new septic system was in the steep area in front of the residence, where the slope exceeded 30 percent. A septic system permit was issued by the Health Department at the time the Building Permit was issued in March 2008. The septic system was installed by the applicant as approved by the Health Department and the Health Department staff approved the installation in October 2008. The property owners believed that because the Health Department issued a permit for the septic system, and because nothing was said by any Building or Grading Inspectors regarding the additional construction, no further permits were required.

A Code Enforcement case (CE090187) was opened on May 5, 2009 after the RMA-Planning Services Department became aware that unpermitted grading and construction of retaining walls was in progress in the steep area in front of the residence. A Notice of Violation (Exhibit F) specifying the actions required for abatement of the violation was issued on May 26, 2009. On May 29, 2009, at a meeting between County staff and the applicants, the applicants agreed to apply for and pursue issuance of an after-the-fact Use Permit and Design Approval for the unpermitted work that had been done on the property. At this time, the construction on the residence was complete and the applicants were under financial pressure to obtain occupancy, so it was also agreed that occupancy would be granted once the application and fees, including the enforcement fees, were submitted to the county. The application was submitted on June 16, 2009 and occupancy was granted on June 23, 2009.

The unpermitted work that had been done included: 1) the construction of three terraced concrete retaining/garden walls on either side of the stairs on the 30% slopes on the south side of the residence to prevent downslope movement of soil; 2) the construction of a concrete garden wall on the southeast corner of the property; 3) two previously approved retaining walls at the on the east end of the patio between the garage and residence were extended and joined to prevent movement of soil onto adjacent property to the east; 4) the previously approved garden wall on south-east corner of residence was extended to join the garden walls adjacent to the stairs in front; 5) a 44.5 square foot addition to a previously approved deck on the 30% slope on the south side of the residence; 6) repair of a portion of the foundation of the southeastern corner of the house on a slope that exceeds 30%; 7) the construction of wood framed stairs and a concrete landing on the 30% slope on the eastern side of the house to provide access to a basement utility room; 8) the construction of new wood garden and retaining walls in the front yard; and 9) and the relocation of the guest parking area.

As no garden or retaining walls were proposed in the area where the septic system is located, either at the time the septic system permit was issued or when the septic system was installed and inspected by Environmental Health, no analysis of the impacts of the construction of walls over the septic system was done at that time. The Environmental Health Division has determined that it is unclear whether or not the walls which now exist impact the septic system, but that it is likely that the septic trench does not meet either Monterey County Code Section 15.20 or the Basin Plan setbacks to slopes and/or cuts. Removal of the walls at this time would potentially cause damage to the septic system; therefore, the Environmental Health Division has placed a condition of approval on the project requiring that the applicant submit either an engineered plan of the existing septic system and/or that a deed notification stating that the onsite septic disposal system may not meet the Monterey County Code or Basin Plan standards for setbacks to slopes and/or cuts and that an alternative wastewater treatment system may be required for any future repairs of the existing onsite wastewater treatment system on the property.

The project was also not reviewed by the Water Resources Agency prior to submittal of the application for this Use Permit, so a drainage plan for the project has not been reviewed or approved by that agency; however a stormwater drainage system has been installed in conjunction with the previously approved Building and Grading Permits for the project. However, the Land Use Advisory Committee voiced concerns about the offsite impacts of drainage from the site. It has also been noted that during a recent storm, a slope failure occurred on the road cut below the location of a dry well which was installed as part of the drainage system. Therefore, the Water Resources Agency has applied a condition of approval requiring the submittal of a drainage plan for their review and approval.

## Fee Waiver

On June 24, 2009, in conjunction with the application submitted for Planning File No. PLN090200, the applicant submitted a Fee Waiver Request for the code enforcement fees for the Use Permit. The amount of the waiver is based on the Monterey County Land Use Fee Schedule adopted July 1, 2008. The enforcement fees for the Use Permit, in the amount of \$6,798.00, were paid on June 16, 2009. The request for the fee waiver is subject to consideration by the Planning Commission per the Fee Waiver Policy (Exhibit I) adopted by the Board of Supervisors on August 29, 2000. The total amount of fees requested to be waived is **\$6,798.00**.

The RMA-Planning Department did not circulate the fee waiver request to any other departments because the applicant has only requested a waiver of the enforcement fees which are collected only for the Planning Department; no other departments or agencies will be affected by this fee waiver request.

The RMA-Planning Department recommends approval of the fee waiver for the enforcement fees because of: 1) the miscommunication that occurred between the applicant and the County, which led the applicant to believe that they had secured all of the required permits; 2) the fact that there was no feasible alternate location for the required new septic system that would not have required a Use Permit; and 3) once notified of the requirement for the after-the-fact Use Permit, the applicants submitted the application in a timely fashion and have cooperated in the processing of the application.

**EXHIBIT C  
DRAFT RESOLUTION**

**Before the Planning Commission in and for the  
County of Monterey, State of California**

In the matter of the application of:

**GUSTAVO GONZALEZ AND BARBARA SMITH (PLN090200)**

**RESOLUTION NO. 1111**

Resolution by the Monterey County Planning  
Commission:

- 1) Exempting PLN090200 per CEQA Guidelines Sections 15301(e), 15303(e) and 15304(c).
- 2) Approving Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%.
- 3) Approving the waiver of Code Enforcement fees for the after-the-fact Use Permit.

(PLN090200, Gustavo Gonzalez and Barbara Smith, 25476 Flanders Drive, Carmel, Greater Monterey Peninsula Area Plan (APN: 015-112-007-000)

**The Gonzalez application (PLN090200) came on for public hearing before the Monterey County Planning Commission on April 28, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission 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,
  - Greater Monterey Peninsula Area Plan,
  - Greater Monterey Peninsula Area Plan, Inventory and Analysis,
  - Monterey County Zoning Ordinance (Title 21)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 25476 Flanders Drive, Carmel (Assessor's Parcel Number 015-112-007-000, Greater Monterey Peninsula Area Plan. The parcel is zoned "MDR/1-D" (Medium Density Residential, 1 Unit per Acre with Design Control Overlay), which allows residential uses, accessory structures and additions to existing residences subject to Design Approval. Therefore, the project is an allowed land use for this site.
- c) The project planner conducted site inspections on July 7, 2009, October 21, 2009 and March 15, 2010 to verify that the project on the subject parcel conforms to the plans listed above.
- d) 30% SLOPE: Development on slopes that exceed 30% is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 30%, or the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives. (See Finding No. 6)
- e) The project was referred to the Greater Monterey Peninsula 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 warrant referral to the LUAC because the project involves a Design Approval subject to review by the Planning Commission. The LUAC, at a public hearing on February 3, 2010, reviewed and recommended approval of the project by a vote of 4 to 0. There was no public comment at the LUAC meeting in opposition to the project.
- 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 File PLN090200.

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, Cypress Fire Protection District, Public Works, Environmental Health Division, 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) Staff conducted site inspections on July 7, 2009, October 21, 2009 and March 15, 2010 to verify that the site is suitable for this use.
  - c) 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 PLN090200.

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, Cypress Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. The RMA-Planning Department, Cypress Fire Protection Agency, Environmental Health Division and Water Resources Agency 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. The existing development is and will continue to be served by the California American Water Company. A new septic system was installed to serve the existing single family dwelling and guesthouse.
  - c) Garden and retaining walls were constructed over the area where the septic system is located after the septic system was installed, without review or approval by the Environmental Health Division. The construction of the walls over the septic system may have impacted the septic system and created a situation where the septic system does not meet Monterey County Code Section 15.20 or Basin Plan setbacks to slopes or cuts. To address the possible impacts of the wall construction on the septic system and to provide notification regarding the situation to the present and future owners of the property, the Environmental Health Division has included as a condition of approval that the applicant either provide engineered plans for the septic system or record a deed notification stating that the septic system may not meet Monterey County Code or Basin Plan standards for setbacks to slopes/cuts and that an alternative onsite wastewater treatment system may be required for any future repairs of the existing wastewater disposal system on the property.
  - d) Preceding findings and supporting evidence for PLN090200.

4. **FINDING:** **NO VIOLATIONS** - The subject property is not in compliance with rules and regulations pertaining to zoning uses. A code enforcement action (CE090187) has been opened for this violation and this permit is part of the administrative remedy for this violation.

- EVIDENCE:**
- a) On May 26, 2009, the Monterey County RMA-Building Services Department, Code Enforcement Section, issued a Notice of Violation for unpermitted development including: development on a slope in excess of 30% without the required Use Permit and construction of retaining walls and other modifications to the single-family dwelling without the required Design Approval.
  - b) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any other violations existing on subject property.
  - c) Staff conducted site inspections on July 7, 2009, October 21, 2009 and March 15, 2010 and researched County records to assess if any violation exists on the subject property.
  - d) The proposed project cures an existing violation regarding development on a slope which exceeds 30% without the required Use Permit, the

modification of a deck and construction of retaining walls, garden walls and steps without the required Design Approval (CE090187). When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations.

- e) A condition is included to assure that all code enforcement fees and zoning abatement costs, if any, have been paid.
- f) The applicant requests a waiver of the code enforcement fees for the Use Permit for Development on Slopes Exceeding 30 percent.
- g) 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 PLN090200.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15301(e) categorically exempts additions to existing structures where the addition will not result in an increase of more than 50% of the floor area of the structure before the addition; 15303(e) which allows the addition of accessory structures; and 15304(c) which allows minor alterations in the condition of land which does not involve removal of healthy, mature, scenic trees, including filling of earth into previously excavated land with material compatible with the natural features of the site.
  - b) The project involves: a Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%. The development did not involve the removal of any trees. The minor expansion of the deck and stairs occurred outside of the existing structure and did not involve any increase in floor area. The relocation of the guest parking and construction of retaining and garden walls occurred on previously disturbed slopes.
  - c) No adverse environmental effects were identified during staff review of the development application during site visits on July 7, 2009, October 21, 2009 and March 15, 2010.
  - d) See preceding and following findings and supporting evidence.
  - 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 PLN090200.

6. **FINDING:** **DEVELOPMENT ON SLOPE** – The project, as conditioned, is consistent with the requirements of Monterey County Zoning Ordinance section 21.64.230 (Requirements for Development on Slopes in Excess

of 30%). There is no feasible alternative which would allow development to occur on slopes of less than 30%.

- EVIDENCE:**
- a) In accordance with the applicable policies of the Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the authority to grant said permit has been met. This project involves development on a slope which was greater than 40% and as such is not eligible to be processed as an Administrative Permit. A Use Permit is required.
  - b) The project includes application for development on slopes exceeding 30%.
  - c) The Environmental Health Division required the installation of a new septic system prior to the issuance of a building permit for construction of a new Guesthouse. Due to the small size of the lot, the location of the development on the parcel and the setback requirements for septic systems from property lines, structures and slopes, the only feasible location for the septic tank was in an area that exceeded 30% slope.
  - d) Access to the basement utility room on the east side of the house is approximately ten feet below the level of the landing above and requires traversing a slope greater than 30 percent. Construction of wood framed stairs with a concrete landing to provide this access will prevent erosion and provide a safe pathway. No alternate access exists which would not require development on a slope greater than 30 percent.
  - 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 PLN090200.
  - f) The project planner conducted site inspections on July 7, 2009, October 21, 2009 and March 15, 2010.
  - g) The subject project minimizes development on slopes exceeding 30% in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

7. **FINDING:** **FEE WAIVER** – The Planning Commission may waive fees when a request does not meet the listed criteria for RMA-Planning Department Director authorized fee waivers as established by the Monterey County Board of Supervisors adopted Fee Waiver Policy of August 29, 2000 (Resolution No. 2000-342).

- EVIDENCE:**
- a) On June 24, 2009, in conjunction with the application submittal for Planning File No. PLN090200, the applicant submitted a Fee Waiver Request for the code enforcement penalty for the Use Permit for development on 30% slope.
  - b) The amount of the waiver is based on the Monterey Land Use Fee Schedule, adopted July 1, 2008, which was in effect at the time the fees were paid. The enforcement fees for the Use Permit, in the amount of \$6,798.00, were paid on June 16, 2009.
  - c) The RMA-Planning Department did not circulate the fee waiver request to any other departments because the applicant has only requested a waiver of the enforcement fees which are collected only for the Planning Department; no other departments or agencies will be affected by this fee waiver request.
  - d) Design Approval DA060147 was originally submitted in March 2006 as a request for a new two-car garage and a guesthouse addition. In March

2007, the project was amended to include the demolition of the existing guesthouse, carport and more than 50% of the existing residence and the construction of a new garage with guesthouse above and a new residence. The Design Approval was approved by the Zoning Administrator in August 2007. Because the project only required Design Approval, plans were never routed to any department other than Planning until the application for the building permit (BP072747) for the new house, guesthouse and garage was submitted. Upon review of BP072747, the Health Department required that a new onsite septic system be installed for the project. Because of site constraints, including the size and shape of the lot and setback requirements, the only feasible location for the new septic system was in the steep area in front of the residence, where the slope exceeded 30 percent. A septic system permit was issued by the Health Department at the time the Building Permit was issued in March 2008. The septic system was installed by the applicant as approved by the Health Department and the Health Department staff approved the installation in October 2008. The property owners believed that because the Health Department issued a permit for the septic system, and because nothing was said by any Building or Grading Inspectors regarding the additional construction completed, no further permits were required.

- e) The RMA-Planning Department recommends approval of the fee waiver for the enforcement fees because of: 1) the miscommunication that occurred between the applicant and the County, which led the applicant to believe that they had secured all of the required permits; 2) the fact that there was no feasible alternate location for the required new septic system that would not have required a Use Permit; and 3) once notified of the requirement for the after-the-fact Use Permit, the applicants submitted the application in a timely fashion and have cooperated in the processing of the application.

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

**EVIDENCE:** a) Board of Supervisors: Section 21.080.040.D Monterey County Zoning Ordinance.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

- A. Exempt PLN090200 from CEQA per Sections 15301(e), 15303(e) and 15304(c);
- B. Approve Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference;

C. Approve the waiver of fees.

**PASSED AND ADOPTED** this 28th day of April, 2010 upon motion of ~~XXXX~~, seconded by ~~XXXX~~, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mike Novo, Secretary, Planning Commission

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 SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE \_\_\_\_\_.

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.

**RESOLUTION ### - EXHIBIT 1**  
**Monterey County Resource Management Agency**  
**Planning Department**  
**Condition Compliance and/or Mitigation Monitoring**  
**Reporting Plan**

Project Name: GONZALEZ  
 File No: PLN090200 APNs: 015-112-007-000  
 Approved by: Planning Commission Date: April 28, 2010

*\*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>
<b>RMA – Planning Department</b>						
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Use Permit (PLN090200) allows a Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187) and Design Approval for the addition of new wire mesh fencing on front property line. The development completed without benefit of permits consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new	Adhere to conditions and uses specified in the permit.  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.	Owner/ Applicant  RMA - Planning	Ongoing unless otherwise stated	

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)
		stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; and 3) construction of additional retaining and garden walls on slopes that do not exceed 30%. The property is located at 25476 Flanders Drive, Carmel (Assessor's Parcel Number 015-112-007-000), Greater Monterey Peninsula Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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. <b>(RMA-Planning Department)</b>	To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.	WRA  RMA - Planning		
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution [REDACTED]) was approved by the <b>Planning Commission</b> for Assessor's Parcel Number 015-112-007-000 on April 28, 2010. The permit was granted subject to 9 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." <b>(RMA-Planning Department)</b>	Obtain appropriate form from the RMA-Planning Department.  The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant  RMA- Planning	Prior to the issuance of grading and building permits or commencement of use.	
3.		<b>PD032(A) - PERMIT EXPIRATION</b> The permit shall be granted for a time period of 3 years, to expire on April 28, 2013 unless use of the property or actual construction has begun within this period. <b>(RMA - Planning Department)</b>	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval	

<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>
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, 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.		<b>PDSP01 – BUILDING AND GRADING PERMITS (NON-STANDARD CONDITION)</b> The applicant/owner shall secure building or grading permits and/or revisions to existing grading or building permits for the work permitted by this Use Permit as required by the Monterey County RMA-Building Services Department.	The applicant/owner shall apply for and secure any required building or grading permits and/or revisions to existing building or grading permits prior to final inspection for the residence.	Applicant /owner	Prior to final of building and grading permits for residence.	
6.		<b>PDSP02 – CODE ENFORCEMENT FEES (NON-STANDARD CONDITION)</b> The applicant/owner shall pay any required Code Enforcement Fees and/or Zoning Abatement Fees as determined by the Monterey County Planning Commission, the Director of the Monterey County RMA-Planning Department and/or the Director of the Monterey County Building Services Department.	The applicant/owner shall pay to the County of Monterey, any required Code Enforcement Fees and or Zoning Abatement Fees prior to the issuance of any building or grading permits,	Applicant /owner	Prior to issuance of building or grading permits/ or prior to final for the building permit for the house.	
<b>Health Department Environmental Health Division</b>						
7.		<b>EHSP01 — SEPTIC SYSTEM (NON-STANDARD CONDITION)</b> The landscaping walls that were installed did not match the proposed landscaping plan. It is unclear if these walls are impacting the septic systems for the property. Take one of the following actions: 1. Submit an engineered plan for review and approval by Environmental Health. An engineered plan includes a civil engineers stamp and signature. The plan must include a detailed cross section showing the septic system components (seepage pits and dispersal trench) and all dimensions of the landscaping walls. If the setbacks were	1. Submit detailed engineered plans with a cross section of the septic and landscaping walls for review and approval by Environmental Health.  2. Record deed notice. Submit evidence to EHD that notice was recorded.	CA Licensed Engineer/ Owner/ Applicant	Record deed notice prior to final of building permit.	

<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>
		not maintained in the construction of the landscaping walls, a deed notification may be required as well. -OR- 2. Record a deed notification which states: "The onsite wastewater treatment disposal system on parcel 015-112-007-000 may not meet the Monterey County Code or Basin Plan standards for setbacks to slopes/cuts. An alternative onsite wastewater treatment system may be required for any future repairs of the existing onsite wastewater treatment disposal system on the property."				
<b>Water Resources Agency</b>						
8.		<b>WR2 - STORMWATER CONTROL</b> The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. <b>(Water Resources Agency)</b>	Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.	Owner/ Applicant/ Engineer	Prior to issuance of any grading or building permits or prior to final inspection for the residence	

**Cypress Fire Protection District**

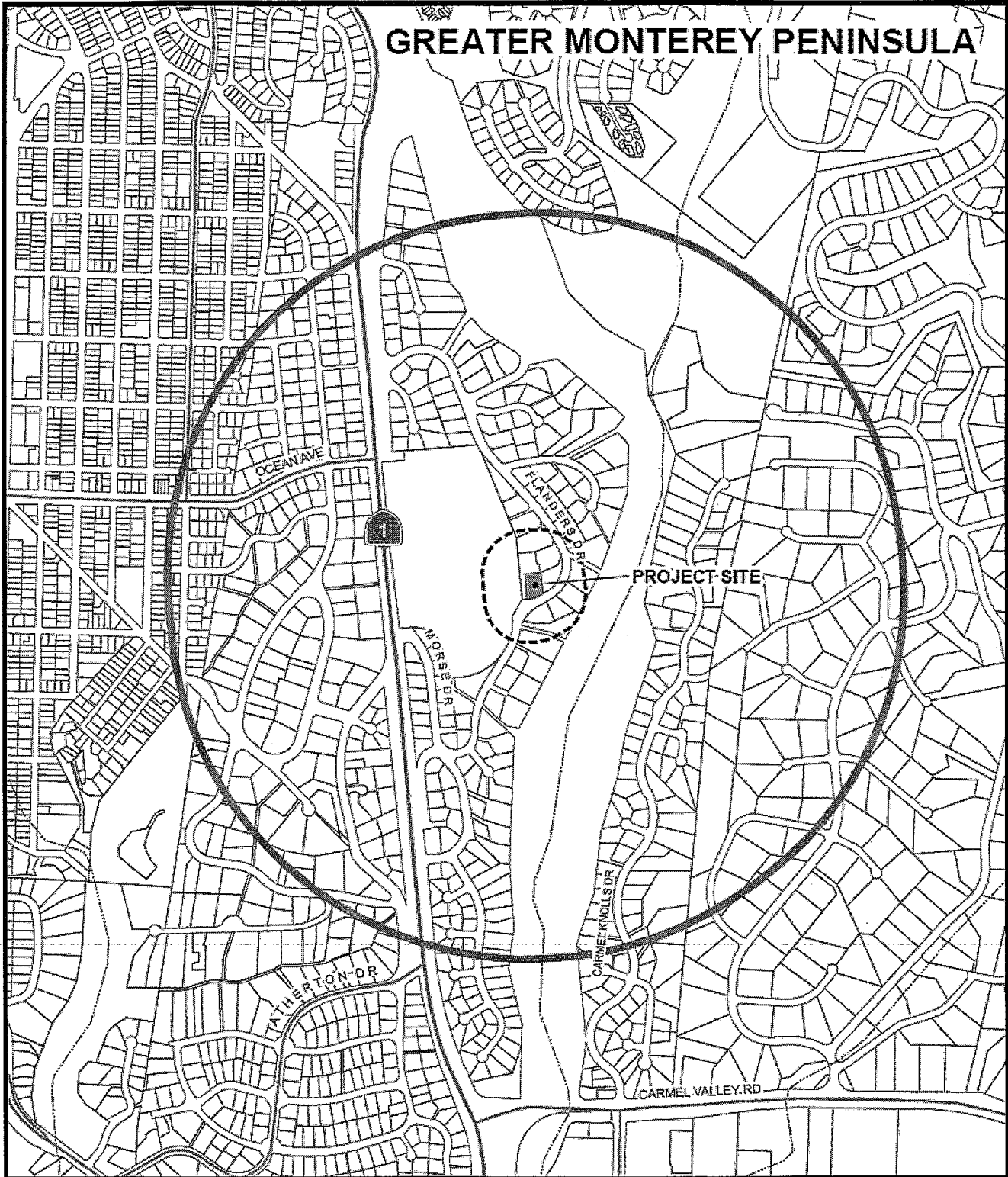
9.		<p><b>FIRE007 - DRIVEWAYS</b>                  Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.  <b>Cypress Fire Protection District.</b></p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
		Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.		

**END OF CONDITIONS**

Rev. 11/21//2009



EXHIBIT D  
VICINITY MAP



APPLICANT: GONZALEZ & SMITH

APN: 015-112-007-000

FILE # PLN090200



300' Limit



2500' Limit



City Limits



PLANNER: ROBINSON

EXHIBIT E

MINUTES

Greater Monterey Peninsula Land Use Advisory Committee  
Wednesday, February 3, 2010

1. Site visit at 1:00 PM (PLN090200) 25476 FLANDERS DR CARMEL

ATTENDEES: Reiverson, Church, Smith, ~~Church~~ Berry

2. Site visit at 2:00 PM (PLN090381) 7414 ALTURAS CT MONTEREY

ATTENDEES: Reiverson, Church, Smith, Berry

3. Site visit at 3:00 PM (PLN020332) 9601 BLUE LARKSPUR LN & CITATION CT MONTEREY

ATTENDEES: Reiverson, Church Smith Berry

4. Meeting called to order by Smith at 4:05 am/pm

5. Roll Call

until after McIntosh vote N  
Members Present: Reiverson, Church, Smith, Berry, DeHoff

Members Absent: Jacobson

6. Approval of Minutes:

A. December 2, 2009 minutes Continued until next meeting

Motion: \_\_\_\_\_ (LUAC Member's Name)

Second: \_\_\_\_\_ (LUAC Member's Name)

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

Abstain: \_\_\_\_\_

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7. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

None

8. **Scheduled Item(s)**

9. **Other Items:**

A) Election of Officers:

LUAC member nominated for Chairperson: DeHoff

Motion: Smith (LUAC Member's Name)

Second: Berry (LUAC Member's Name)

Ayes: 4

Noes: 0

Absent: 1

Abstain: 0

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LUAC member nominated for Secretary: Berry

Motion: ~~Berry~~ DeHoff (LUAC Member's Name)

Second: Church (LUAC Member's Name)

Ayes: 4

Noes: 0

Absent: 1

Abstain: 0

B) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

C) Announcements

10. Meeting Adjourned: 5:25 am/pm

Minutes taken by: DeHoff

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# Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department  
168 W Alisal St 2<sup>nd</sup> Floor  
Salinas CA 93901  
(831) 755-5025

Advisory Committee: **Greater Monterey Peninsula**

Please submit your recommendations for this application by: **February 3, 2010**

**Project Title:** GONZALEZ GUSTAVO A & BARBARA J SMITH

**File Number:** PLN090200

**File Type:** ZA

**Planner:** ROBINSON

**Location:** 25476 FLANDERS DR CARMEL

**Project Description:**

Use Permit for development on slope exceeding 30% and Design Approval to clear violation (CE090187). The development consists of: 1) installation of new septic system, construction of retaining and garden walls; expansion of deck and stairs, construction of new stairs and repair of portion of foundation on a slope exceeding 30%; 2) relocation of guest parking; 3) construction of additional garden walls; and 4) addition of wire mesh fencing on front property line. The property is located at 25476 Flanders Drive, Carmel (Assessor's Parcel Number 015-112-007-000), west of Flanders Drive between Whitman Circle and Row Place, Greater Monterey Peninsula area.

Was the Owner/Applicant/Representative Present at Meeting? Yes  No

**PUBLIC COMMENT:**

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
			<div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">RECEIVED</div> <div style="font-size: 0.8em; margin-top: 5px;">FEB 08 2010</div>
			<div style="font-size: 0.8em; font-weight: bold; margin: 0;">MONTEREY COUNTY PLANNING &amp; BUILDING INSPECTION DEPT.</div>

**LUAC AREAS OF CONCERN**

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
<i>Water percolation in front of lot</i>		<i>Make sure the hydrology is carefully considered</i>

**ADDITIONAL LUAC COMMENTS**

**RECOMMENDATION :**

Motion by: Barry (LUAC Member's Name)

Second by: Detteff (LUAC Member's Name)

- Support Project as proposed
- Recommend Changes (as noted above)
- Continue the Item

Reason for Continuance: \_\_\_\_\_  
Continued to what date: \_\_\_\_\_

AYES: 4  
NOES: 0  
ABSENT: X 2 Reiersen & Jacobs  
ABSTAIN: 0

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PLANNING & BUILDING  
INSPECTION DEPT.

EXHIBIT F

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY



## BUILDING SERVICES

Timothy P. McCormick P.E. & C.B.O.  
Director of Building Services

168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-5027  
Fax: (831) 757-9516  
[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

### CERTIFIED MAIL

### VIOLATION NOTICE

May 26, 2009

Gustavo Gonzalez & Barbara Smith  
25476 Flanders Drive  
Carmel, CA 93923

A.P.N: 015-112-007-000

File #: CE090187

Zoning: MDR/1-D

Dear Property Owner:

On May 6, 2009, the County of Monterey Building Services Department noted violations on your property at 25476 Flanders Drive, Carmel, for retaining wall construction, placement of unapproved lighting fixtures without proper permits and approvals. These violations, the corrections necessary, and the date by which these corrections should be completed are listed on Attachment A. No permits, licenses, or other entitlements may be issued by any County department until these violations have been cleared.

This letter also serves as notice that the Building Services Department intends to invoke certain administrative procedures should these violations continue to exist after the date stated. Should the County of Monterey find it necessary to invoke any of the following administrative procedures or any judicial procedure in order to compel you to correct these violations, you will be required to pay for all of the costs expended by the County of Monterey in enforcing its code sections.

#### Permit Center Locations

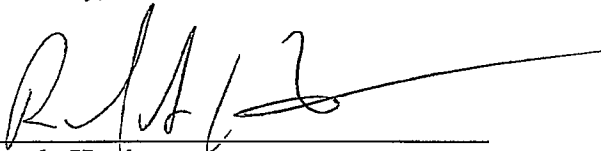
Salinas Office: 168 W. Alisal St., 2<sup>nd</sup> Floor, Salinas, CA 93901; Fax: (831)757-9516; Phone: (831) 755-5027  
Coastal Office: 2620 First Ave., Marina, CA 93933; Fax: (831) 384-3261; Phone: (831) 883-7500  
King City Office: 52-North Second St., King City, CA 93930; Fax: (831) 385-8387; Phone: (831) 385-8315

These possible procedures include, but are not limited to, the following:

1. The Recording of a Notice of Monterey County Code Violation on your property with the County Recorder (See attachment B.)
2. The issuance of a citation
3. Formal enforcement action
4. Administrative fees associated with the investigation and processing of these violations

In order to abate the violations, you must obtain a permit and have it finalized or take appropriate actions to clear these violations and pay the associated fees.

Sincerely,



---

Randy Herrington  
Code Enforcement Officer

RH/tb

Enclosures: Attachments A and B

cc: Leslie Girard, Assistant County Counsel  
Office Link  
File

ATTACHMENT A

CASE#: CE090187

APN: 015-112-007-000

**VIOLATION(S)**

CODE SECTION		DESCRIPTION OF VIOLATION(S)
1.	21.84.040 (A) M.C.C.	Development (south section of house graded of slopes in excess of 30%, unpermitted retaining wall construction, placement of unapproved lighting fixtures along front porch area of house) without benefit of Design Approval and use permit as per M.C.C.21.44.030 (A) and as defined by M.C.C.21.06.310, and section M.C.C. 21.64.230 (C) (1). This lighting issue is contrary to Monterey County General Plan section 26.1.20.
2.	18.52.040 (A) M.C.C.	Construction of a retaining wall (greater than 4 feet in height as measured from bottom of footing to top of wall) built without required building permit as per section 301.1 of the Uniform Administrative Code, as adopted by M.C.C. 18.06.010

**ACTIONS NECESSARY TO ABATE VIOLATION(S)**

- 1. You must first contact Land Use Technician Dawn Vest at (831) 759-6716 to discuss the actions necessary to abate the violation(s). LUT Dawn Vest may assist you without an appointment at the Building Counter in the Salinas Permit Center.**
2. Submit completed application for the required permits: use permit, retaining wall building permit and design approval.
3. Diligently pursue the application to ensure issuance of said permits and completion of the project to include a final inspection sign-off. Notify code enforcement officer when permits have final sign off for compliance inspection and closure of code enforcement case.

**TIME OF COMPLIANCE**

- 1. June 26, 2009**

**To avoid formal enforcement action, maintain contact with the Land Use Technician/Code Enforcement Officer to ensure that they are aware of any corrective progress you are making.**

**ATTACHMENT B  
NOTICE OF INTENT TO RECORD A  
NOTICE OF VIOLATION**

Notice is hereby given pursuant to Monterey County Code:

- |   |  |
|---|--|
| <input type="checkbox"/> Section 1.20.020 et seq (General Code Violation) | <input checked="" type="checkbox"/> Section 18.52.100 (Buildings & Construction) |
| <input type="checkbox"/> Section 16.08.450 (Grading)                      | <input type="checkbox"/> Section 20.90.100 (Zoning /Coastal Zone)                |
| <input type="checkbox"/> Section 16.12.180 (Erosion)                      | <input checked="" type="checkbox"/> Section 21.84.100 (Zoning)                   |
| <input type="checkbox"/> Section _____                                    | <input type="checkbox"/> Section _____   |

that Monterey County has knowledge of facts indicating that the real property situated in the County of Monterey, State of California, known as Assessor's Parcel 015-112-007-000, and more commonly known as 25476 Flanders Drive, Carmel, is in violation of the Code. The nature of these violations, the actions necessary to abate these violations, and the date by which these violations must be corrected are fully set forth in Attachment A and are incorporated by this reference.

If you wish to present evidence that the zoning violation cited in Attachment A **does not** exist or for some other reason the Notice of Monterey County Code Violation should not be recorded, you may do so on Wednesday, June 17, 2009, at **8:00 a.m.** at the Monterey County Building Services Department, 168 West Alisal Street 2<sup>nd</sup> Floor, Salinas, with a Code Enforcement Officer. **Please call Dawn Vest at (831) 759-6716 to confirm your intent to attend this meeting at least 3 business days prior to the proposed meeting date.**

**Your failure to demonstrate that the Code violations do not exist, to correct the violations by the date of compliance, or to have the Code Enforcement Officer extend the date of compliance will result in the Notice of Monterey County Code Violation being recorded against your property on or after that date.**

The recorded notice will not be released until such time as all violations are abated and all administrative fees and recording fees have been paid.

EXHIBIT G



FEE WAIVER REQUEST

Monterey County Planning & Building Inspection Department  
 168 West Alisal, Salinas, CA 93901  
 (831) 755-5025

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JUN 24 2009

MONTEREY COUNTY  
 PLANNING & BUILDING  
 INSPECTION DEPT.

**Property owner:** Gustavo Gonzalez and Barbara Smith  
**Address:** 25476 Flanders Drive  
**City/State/Zip:** Carmel, CA  
**Phone:** (831) 601-7800  
**Email:**

**Agent:** Lombardo & Gilles attn: Shandell Brunk  
**Address:** 318 Cayuga Street  
**City/State/Zip:** Salinas, CA 93901  
**Phone:** (831) 754-2444  
**Email:** shandell@lomgil.com

**Assessor's Parcel Number:** 015-112-007-000  
**Description of Project:** Amendment to DA060147

**Fee Waiver Justification:**  
 Please see attachment

*(attach additional information if needed)*

<i>Department use only</i>	
Given out:	By:
Received: June 24, 2009	By: Delinda Robinson
Referred to other agencies: NO	
<b>Fees waived by Director ?</b>	Yes <input type="checkbox"/> <b>(No)</b> <input checked="" type="checkbox"/> <b>Date</b>
Basis for Waiver	
Amount of Fees waived: P&BI	\$ 6,798.00
	Health
	WRA
	PWD

Anthony L. Lombardo  
Jeffery R. Gilles

Dennis C. Beougher  
Patrick S.M. Casey  
E. Soren Diaz  
J. Kenneth Gorman  
Koren R. McWilliams  
Amy Purchase Reid  
Jason Refferer  
Paul Rovella  
Bradley W. Sullivan  
James W. Sullivan  
Kelly McCarthy Sutherland

Of Counsel  
Sheri L. Damon  
Virginia A. Hines



318 Cayuga Street  
P. O. Box 2119  
Salinas, CA 93902-2119  
831-754-2444 (SALINAS)  
888-757-2444 (TOLL FREE)  
831-754-2011 (FAX)  
www.lomgill.com

530 San Benito St., Suite 202  
Hollister, CA 95023  
831-630-9444

Client No: 4133.000

**RECEIVED**

**JUN 24 2009**

**MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.**

June 24, 2009

**VIA HAND DELIVERY**

Delinda Robinson  
Senior Planner  
168 W. Alisal Street, Second Floor  
Salinas, CA 93901

**RE: Gonzalez Fee Waiver Justification**

Dear Delinda:

On behalf of our clients Gustavo Gonzalez and Barbara Smith, I respectfully request that the code enforcement penalty fee be waived as work was not conducted on 30 percent slopes, and therefore does not require the issuance of a Use Permit.

- The 30 percent slope was incorrectly identified on the original plans by the designer as evidenced by the Environmental Health Department's (EHD) issuance of the Septic System Permit. Had the slope been truly 30 percent, the EHD would not have issued such a permit without further consultation with the Planning Department.
- The Geotechnical Engineer has confirmed that the natural ground slope at the property averaged 20 to 27 percent and was comprised of uncontrolled, poorly compacted fill which had a tendency to travel and creep down slope towards Flanders Drive. Therefore, the Geotechnical Engineer recommended a series of low terraced retaining walls to stabilize the slope and protect the building from future settling.
- Upon issuance of their Design Approval, the applicants were required by the Environmental Health Department to replace an existing 1,500 gallon septic tank with a new 2,500 gallon septic tank including four 60' deep by 4' diameter seepage pits. Due to 50 foot setback requirements for the seepage pits, the pits were localized within and immediately adjacent to the slope in question.
- The entire landscape on the south side of the residence, including the slope in question was altered for the installation of this new system. Environmental Health Specialist, M. Scott



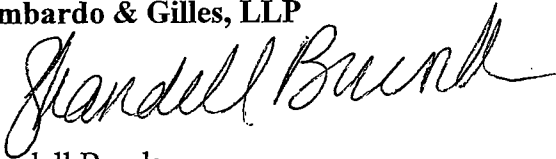
Shaw, approved the installation of the new septic system on 10/17/2008. Mr. Shaw did not inform the applicants that they would need to seek further planning approval for the newly located system. Therefore the applicants were unaware that such a requirement existed.

- Work authorized by the applicants was done so after consulting specialists in the field of engineering and construction. These experts did not indicate, nor do they believe that work was commencing on slopes greater than 30 percent. Therefore, any encroachment into such areas was done so without malice or disregard for the current regulations.

Based upon these facts, we respectfully request that the penalty fees for the application be waived.

Sincerely,

**Lombardo & Gilles, LLP**

A handwritten signature in cursive script that reads "Shandell Brunk". The signature is written in black ink and is positioned below the typed name.

Shandell Brunk  
Land Use Specialist  
shandell@lomgil.com

EXHIBIT H

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

*Resolution 2000- 342*

Resolution Amending the Monterey )  
County Master Fee Resolution to )  
Clarify the Fee for Appeals on )  
Land Use Issues and Establish )  
Criteria for the Waiver of Fees in )  
Specific Circumstances. )

Whereas: Chapter 1.40 of the Monterey County Code establishes the Monterey County Master Fee Resolution (the Resolution) as the vehicle for setting and amending fees; and,

Whereas: The Board wishes to clarify the appeal fee for land use issues and to establish criteria and authority for the Director of Planning and Building Inspection to waive fees in specific cases; and,

Whereas: The Board has received a report and recommendations from the County Administrative Office and Planning and Building Inspection; and,

Whereas: The Board has held a public hearing as required by law and heard from all interested parties;

NOW, therefore, be it resolved that the Board clarifies that the appeal fee for appeals to the Planning Commission or Board of Supervisors on land use issues is \$671.00.

Be it further resolved that the Director of Planning and Building Inspection may waive application and appeal fees for discretionary permit and building permit applications for:

1. Small day care centers (less than twelve children).
2. Inclusionary portions of proposed residential developments.
  - a. Special Handling affordable housing projects, as detailed in the adopted Special Handling criteria (25% affordable housing). Amount of fees waived is based on the percentage of affordable housing provided, and may include additional fees beyond the original application fees.
  - b. Persons age 62 or over on a fixed, very low income as defined by Housing and Urban Development.

- c. Reclassification applications to bring property into consistency with existing General Plan land use designations.
  - d. County or other government agencies.
  - e. Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.
8. Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
    - a. The proposed project is available for use by the general public; and
    - b. Provides a scope of benefit beyond the residents of the immediate vicinity; and,
    - c. Is of obvious public benefit. Evidence of public benefit includes, but is not limited to, projects that:
      - i. Meet a public need previously identified or recognized by the Board of Supervisors;
      - ii. Provide a public facility not presently available in the community;
      - iii. Have generated obvious, substantial community support; or,
      - iv. Would either reduce County costs or increase County revenue.
  9. General Plan amendments for parcels with inappropriate or inaccurate land use designations provided the property has been field checked and verified that it is inaccurately or inappropriately designated.

Requests Not Conforming to Policy:

The Planning Commission shall consider all requests for fee waivers not meeting the above criteria.

Appeal of Director's Decision:

The Planning Commission shall consider all appeals of decisions of the Director on fee waiver requests.

Payment of Fees:

All fees shall be paid at the time of the filing an application or an appeal. Should the fees subsequently be waived, the fees shall be refunded.

On motion of Supervisor PENNYCOOK, seconded by Supervisor SALINAS, and carried by those members present, the Board hereby adopts this resolution amending the Monterey County Master Fee Resolution to clarify the fee for appeals on land use issues and establish criteria for the waiver of fees in specific circumstances.