



County of Monterey

Item No.12

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 26-084

June 09, 2026

Introduced: 5/27/2026

Current Status: Scheduled PM

Version: 1

Matter Type: BoS Resolution

PLN110257-AMD1 - BERLIN ANDREW T TR - District 5

Public hearing to consider:

- a. Granting the appeal of Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust from the April 9, 2026, decision of the Zoning Administrator to deny a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257);
- b. Finding the project Categorically Exempt pursuant to California Environmental Quality Act CEQA Guidelines section 15302 and no exceptions to section 15300.2 apply; and
- c. Approving a Combined Development Permit consisting of:
 1. Coastal Development Permit to allow development within the Big Sur Critical Viewshed;
 2. Coastal Development Permit for development within 750 feet of an archaeological resource; and
 3. Design Approval to allow replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate.

Project Location: 35986 Highway 1, Big Sur, Big Sur Coast Land Use Plan, (Assessor's Parcel Number 243-231-027-000).

Proposed (CEQA) action: Finding the project Categorically Exempt pursuant to CEQA Guidelines section 15302 and no exceptions to section 15300.2 apply.

RECOMMENDATIONS

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Grant the appeal of Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust from the April 9, 2026, decision of the Zoning Administrator to deny a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257)
- b. Find the project Categorically Exempt pursuant to CEQA Guidelines section 15302 and no exceptions to section 15300.2 apply; and
- c. Approve a Combined Development Permit consisting of:
 1. Coastal Development Permit to allow development within the Big Sur Critical Viewshed;
 2. Coastal Development Permit for development within 750 feet of an archaeological resource; and
 3. Design Approval to allow replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate.

The attached draft resolution includes findings and evidence for consideration (**Attachment A**). Staff recommends approval, subject to 4 conditions of approval.

PROJECT INFORMATION

Agent: Laura Lawrence, Law Office of Aengus L. Jeffers

Property Owner: Andrew Berlin Trust

APN: 243-231-027-000

Zoning: Rural Density Residential, 40 acres per unit, Design Control, 14-foot height limit, Coastal Zone, or “RDR/40-D (14’)(CZ)”

Plan Area: Big Sur Coast Land Use Plan

Flagged and Staked: No

Project Planner: Taylor Price, Senior Planner

pricet1@countyofmonterey.gov, 831-784-2179

SUMMARY:

The proposed project includes the replacement of a fence along Highway 1 in Big Sur and a gate at the driveway to a private property. The project was denied by the Zoning Administrator for procedural reasons - i.e. the project should have been heard by the Planning Commission instead of the ZA - and that denial has been appealed to the Board of Supervisors. In addition to that procedural misstep, there were contentions raised by a member of the public in opposition to granting the permit. By way of this appeal, the procedural issues are essentially resolved - the matter is now properly before the correct decision-making body. Substantively, staff have also reviewed the project and the public’s objections and have determined that the project is consistent with the applicable plans, policies, and regulations that govern development. Accordingly, approval of the project (via granting the appeal) is recommended.

The proposed project was originally processed as a Minor and Trivial Amendment to a Coastal Administrative Permit, pursuant to Title 20 section 20.76.115. As such, the project was scheduled for consideration by the Chief of Planning on December 3, 2025. However, on November 20, 2025, a member of the public raised concern with the proposed design, potential impacts on nearby public vistas, and requested that the project be referred to a public hearing in accordance with Title 20 section 20.76.060. After receiving the written concerns, staff elevated the project to a hearing before the Zoning Administrator - this was in error, as the proper body for hearing this project should have been the Planning Commission

On March 26, 2026, after public testimony, the Zoning Administrator expressed that the proposed Minor and Trivial Amendment may not be trivial in nature due to the project’s location within the critical viewshed of Highway 1 in Big Sur. At the March 26, 2026 hearing, the Zoning Administrator continued the item to a date certain (April 9, 2026) and directed staff to prepare a draft resolution recommending denial due to procedural inconsistencies. Ultimately, the Zoning Administrator denied the permit on the grounds that the permit should have been considered by the Planning Commission. The Zoning Administrator resolution is attached as **Attachment C**.

Appellants Andrew T. Berlin, Trustee of Andrew T. Berlin Revocable Trust appealed the April 9, 2026, Zoning Administrator decision denying the Minor and Trivial Amendment to the Combined Development Permit on procedural grounds. Appellants contend that the Zoning Administrator’s findings and decision were not supported by the evidence, and the decision is contrary to the law. The specific contentions raised by the Appellant are identified below and are addressed in more detail in

the Draft Resolution (**Attachment A**).

This hearing is de novo. As explained herein, staff recommend granting the appeal and approval of the Combined Development Permit.

DISCUSSION:

The proposed fence and gate replacement was originally processed as a Minor and Trivial Amendment to a 2011 permit that included construction of a new house. Minor and Trivial Amendments can be approved by the Chief of Planning provided no objections are received during the noticing period. In this case, an objection to approval of the amendment was raised after notice was distributed and the Chief of Planning referred the project to the Zoning Administrator for a decision. The Zoning Administrator after review of the project determined that the project's Appropriate Authority was the Planning Commission, pursuant to Title 20 section 20.44.040.E. The Zoning Administrator determined that the project should have been referred to the Planning Commission rather than the Zoning Administrator as the Planning Commission was the Appropriate Authority to consider Design Approvals for structures which may impact public views. The Zoning Administrator also determined that the proposed Minor and Trivial Amendment was substantive due to the project's location within a scenic highway (Highway 1). On the procedural and technical grounds, the Zoning Administrator denied the permit application. Following the denial, the applicant timely appealed the Zoning Administrator's decision.

Appeal

The appellant, Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust, filed an appeal with two contentions (**Attachment B**), which staff has summarized below:

1. *"Monterey County Code § 20.44.040.E states that the Planning Commission shall be the Appropriate Authority to consider Design Approval applicants for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designed critical viewshed, or which may be prominent from common public viewing areas. Because the proposed development does not exceed 6 feet in height, it is not considered a structure under Monterey County Code §20.06.1200. Therefore, the Zoning Administrator was the Appropriate authority to consider the Minor and Trivial Amendment Design Approval applicant under Monterey County Code §20.44.040.C."*
2. *"While the project site is located along Highway 1, it is expressly exempt from Big Sur's Critical Viewshed as it is located in the Rocky Point Exception Area established pursuant to Big Sur LCP Policy 3.2.4 such that development on the Property is expressly subject to the standards of Big Sur LCP Policy 3.2.4"*

Staff has reviewed the contentions raised in the appeal. Responses to the contentions are provided in more detail in the draft Resolution (**Attachment A**). In summary, the Board of Supervisors can approve or deny the permit as the appeal authority from the Zoning Administrator or Planning Commission decisions, resolving all procedural issues; and regarding the merits of the application, staff has found that the proposed project is consistent with the applicable policies and regulations that apply.

Design/Critical Viewshed

The Critical Viewshed is defined as everything visible from Highway 1. Big Sur Coast Land Use Plan (BSC LUP) Policy 3.2.1 prohibits development visible from Highway 1 and major public viewing areas. The subject property is located along Highway 1, and according to Policy 3.2.2 of the BSC LUP, is located within a Critical Viewshed. Pursuant to Title 20 section 20.16.030.B development in the Big Sur Coast within the Critical Viewshed is required to obtain a Coastal Development Permit.

Development within the Critical Viewshed shall be prohibited; however, BSC LUP Policy 3.2.3.A.7 and section 20.145.030.A.2.f of the Coastal Implementation Plan, Part 3 allows replacement of existing structures on the original site, provided no other less visible portion of the site is acceptable to the property owner, and as long as the replacement does not increase the visibility of the structure. The proposed fence and gate are in a similar location to the original gate and fence; and have been sited slightly deeper into the property from Highway 1 to further minimize the visibility of the gate and fence. Finally, the gate and fence as proposed do not increase their visibility into the Critical Viewshed and are in fact set further back into the property to minimize the portion of the fence and gate in the Critical Viewshed.

The proposed fence would be consistent with the rural setting and character of Big Sur through its use of natural locally sourced stone and dark bronze materials that reflect the subdued colors and textures of the surrounding landscape. The natural stone (varying beige and earthy colors) complements the geologic characteristics of the Big Sur coastline and Santa Lucia Mountains, while the dark bronze gate provides a muted, non-reflective earth tone that minimizes visual contrast with nearby vegetation. The proposed stone fence would mirror other stone fences along the Big Sur Coast, including nearby properties and Sea Meadow at Rocky Point. Like the existing fence line, the replacement fence incorporates semi-modern design elements such as rough-cut irregular locally sourced stones to soften the appearance. The rustic character in the Big Sur area is maintained through minimizing the bulk and mass of those structures that may be allowed in the Critical Viewshed, maintaining visual access to the ocean (where applicable), and through the use of natural materials, earth-toned finishes, and visual compatibility with the surrounding landscape. The fence's height would be nearly identical to the existing fence, and the perceived change in massing would be limited, given that only 53.5 feet of the front property line fence is being modified. By utilizing natural materials and earth-toned finishes, the proposed fence would be designed to visually recede into the landscape and remain subordinate to the surrounding scenery, making it complementary to the semi-wilderness character of Big Sur identified in LUP Policy 3.2. The remainder of the front property line will continue to be developed with a louvered wood fence, which would be repaired as needed. The proposed fence would smoothly transition into the existing fenceline. As proposed, the entire front property fenceline would consist of natural materials and be of a bulk and mass that does not detract from the scenic beauty of Highway 1 and would not block ocean views. The proposed replacement fence would not impact any nearby vista point, nor substantially change the Highway 1 scenic corridor.

Cultural Resources

The project is within 750 feet of known archaeological resources. Section 20.145.120.A.1 of the Coastal Implementation Plan, Part 3, requires development within 750 feet of known archaeological resources to obtain a Coastal Development Permit. An Archaeological Assessment was prepared as a

part of the previous project (PLN110257), which determined that there was no evidence of cultural resources found around the project area. As the current project is within the existing developed site and does not involve land clearing and minimal land disturbance the project is eligible for an archaeological survey waiver pursuant to section 20.145.120.B.5 of the Coastal Implementation Plan, Part 3.

LAND USE ADVISORY COMMITTEE REVIEW (LUAC):

The project was not referred to the Big Sur LUAC. As a Minor and Trivial Amendment, it was determined that the project did not require LUAC review pursuant to the Board adopted LUAC Guidelines. The decision to refer the matter to the Big Sur LUAC was not revised following the Zoning Administrators decision and appeal given that the County has a limited time to process the appeal.

CEQA:

California Environmental Quality Act (CEQA) Guidelines section 15302 categorically exempts replacement structures where the new structures will be located on the same site and have substantially the same purpose and capacity as the structure replaced. The project includes construction of a replacement fence and gate. The replacement fence and gate will be located in the same area as the existing fence and gate and serve the same purpose. Therefore, the project is consistent with the categorical exemption requirements of CEQA Guidelines section 15302. None of the exceptions under CEQA Guidelines section 15300.2 apply to this project. The project does not involve alterations to a designated historical resource, a hazardous waste site, or development that would result in a cumulatively significant impact. Although the project is visible from Highway 1, the development is rural in design, compatible with the surrounding environment, and will not have an adverse impact on public or visual access. There are no unusual circumstances associated with undertaking the project that would create a reasonable possibility that the project would have a significant effect on the environment.

FINANCING:

Funding for staff time associated with this project is included in the FY2025-26 Adopted Budget for Housing and Community Development, General Fund 001, Appropriation Unit HCD002, Unit 8543. County staff have collected fees for processing this permit. No fee is charged for an appeal of a Coastal Development Permit that is appealable to the California Coastal Commission.

BOARD OF SUPERVISORS STRATEGIC PLAN GOALS:

The project aligns with Board of Supervisors Strategic Plan Goals A: This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Mark a check to the related Board of Supervisors Strategic Plan Goals:

- X Well-Being and Quality of Life
- ___ Sustainable Infrastructure for the Present and Future
- ___ Safe and Resilient Communities
- ___ Diverse and Thriving Economy

Link to the Strategic Plan:

< <<https://www.countyofmonterey.gov/home/showdocument?id=139569>>>

Prepared by: Taylor Price, Senior Planner, (831) 784-2179

Reviewed by: Lori Woodle, Finance Manager I

Reviewed and Approved by: Craig Spencer, HCD Chief of Planning

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution including:

- Recommended Conditions of Approval
- Project Plans, Colors, Materials

Attachment B - Notice of Appeal

Attachment C - Zoning Administrator Resolution No. 26-024

Attachment D - Vicinity Map

cc: Front Counter Copy; California Coastal Commission; CalFire; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Taylor Price, Senior Planner; Fiona Jensen, Principal Planner; Berline Andrew T Tr, Property Owners; Laura Lawrence, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Christina McGinnis, Keep Big Sur Wild; Trey Kropp, Interested Party; Planning File PLN110257-AMD1