



Legislation Details (With Board Report)

**File #:** ZA 19-140      **Name:** PLN160649 CARMEL POINTE PROPERTIES  
**Type:** Zoning Administrator      **Status:** Agenda Ready  
**File created:** 11/26/2019      **In control:** County of Monterey Zoning Administrator  
**On agenda:** 12/5/2019      **Final action:**

**Title:** PLN160649 - CARMEL POINTE PROPERTIES LLC  
Public hearing to consider an after-the-fact permit to remedy code violation case (12CE00260) for alterations on two residential structures (north “rear house” and south “front house”) including: replacement of windows and construction of new exterior stairs at the front unit, and replacement of windows, construction of new exterior stairs, new exterior stucco coating on a brick fireplace, and conversion of a garage into a bedroom on the rear unit. Improvements involved addition of 47 square feet to the legal non-conforming rear unit that, along with the front house, exceeds building site coverage limits for the property. A permit is included to allow parking within the front setback to count toward the amount of required parking. All work is located within 750 feet of known archaeological resources.  
Project Location: 2545 15th Avenue, Carmel, Carmel Area Land Use Plan  
Proposed CEQA Action: Categorically exempt per Section 15301 of the CEQA Guidelines

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report, 2. Exhibit A - Project Data Sheet, 3. Exhibit B - Draft Resolution, 4. Exhibit C - Vicinity Map, 5. Exhibit D - Phase One Historic Report ( LIB170073), 6. Exhibit E - Colors and Materials, 7. LET\_Zoning Administrator\_PLN160649\_120519

Date	Ver.	Action By	Action	Result
12/5/2019	1	County of Monterey Zoning Administrator		

**PLN160649 - CARMEL POINTE PROPERTIES LLC**

Public hearing to consider an after-the-fact permit to remedy code violation case (12CE00260) for alterations on two residential structures (north “rear house” and south “front house”) including: replacement of windows and construction of new exterior stairs at the front unit, and replacement of windows, construction of new exterior stairs, new exterior stucco coating on a brick fireplace, and conversion of a garage into a bedroom on the rear unit. Improvements involved addition of 47 square feet to the legal non-conforming rear unit that, along with the front house, exceeds building site coverage limits for the property. A permit is included to allow parking within the front setback to count toward the amount of required parking. All work is located within 750 feet of known archaeological resources.

**Project Location:** 2545 15<sup>th</sup> Avenue, Carmel, Carmel Area Land Use Plan

**Proposed CEQA Action:** Categorically exempt per Section 15301 of the CEQA Guidelines

**RECOMMENDATION:**

Staff recommends the Zoning Administrator adopt a Resolution to:

- 1) Find the project includes minor alterations to an existing structure which qualify as a Class 1 Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2 of the CEQA Guidelines; and
- 2) Approve a Combined Development Permit that would remedy Code Violation (12CE00260) consisting of:
  - a) Coastal Development Permit and Design Approval to allow change of nonconforming use of a

- structure in the form of after-the-fact conversion of a garage (attached to the Accessory Dwelling Unit) into a bedroom, and stairs, windows, and paint on the main house;
- b) Variance to allow after-the-fact addition of 47 square feet to an existing legal nonconforming structure as to Building Coverage in exceedance of the maximum allowed 35% to 39.46%;
  - c) Coastal Administrative Permit to allow a parking space located within the front setback count toward the amount of required parking; and
  - d) Coastal Administrative Permit to allow development within 750 feet of known archaeological resources.

The attached resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends that the Zoning Administrator adopt the resolution approving PLN160649 subject to 3 conditions of approval.

**PROJECT INFORMATION:**

**Agent:** Cody Phillips c/o Anthony Lombardo and Assoc.

**Property Owner:** Roy and Laura Thiele-Sardiña

**APN:** 009-402-012-000

**Parcel Size:** 0.09 acre

**Zoning:** “MDR/2-D(18)(CZ)” - Medium Density Residential with maximum gross density of 2 units per acre and maximum 18 feet height with a Design Control Overlay in the Coastal Zone

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** no

**SUMMARY**

The subject parcel is located in a developed residential neighborhood along the north side of Ocean View Avenue, between San Antonio Avenue and Carmelo Street in unincorporated Carmel. The property contains two dwelling units on a 0.09 acre lot. The “front house” on the south half of the property and nearest 15<sup>th</sup> street is 666 square feet, and the “rear house” on the north half of the property is 912 square feet. The rear house is not visible from the street due to the position in the back of the lot behind the front house. Both the front house and rear house are single-story with asphalt shingle roof, cream stucco finish, and wood-trim windows painted grayish green. Although the home was built circa 1932, there is no evidence of historic significance. The site is zoned for Medium Density Residential (MDR) use in the Coastal Zone. Together, the two existing dwelling units on the lot did not conform with the building site coverage limitations for the MDR zone and as such, the structures on the property are considered legal non-conforming. In 2012, a code violation case was opened on the subject parcel for work performed without permits including: new exterior stairs, new windows, replacement of an electrical panel and water heater in the front house and, new exterior stairs, new windows new stucco on a brick fireplace, interior remodel, replacement of an electrical panel and water heater and conversion of a garage to a bedroom on the rear house. Staff has also determined that a 47 square foot addition to the rear house was added without a permit. This permit would remedy the violations. Multiple entitlements are required to remedy the violation because the site is located within a Design Control District, structures maintain a legal non-conforming building site coverage and that site coverage was increased with the 47 square foot addition which triggers the need for a Variance, the garage conversion and gate construction impacted the compliance with minimum parking standards for the site, and the site is located within 750 feet of known archaeological resources. Staff has reviewed the proposal as though the violation did not exist and has found the proposal consistent with the relevant policies of the Carmel Land Use Plan and Coastal Implementation Plan. The two homes on the lot are small (666 square feet and 912 square feet) and the work performed including conversion of the garage to a bedroom and the 47 square foot addition on the rear home provided additional living space without the need for demolition and new construction. A single car garage remains

under the front house and adequate space exists within the driveway to provide off-street parking.

DISCUSSION:

*Project Proposal*

The applicant has requested permits to legalize improvements that were done without the benefit of a permit. Improvements included:

- Front house - new exterior stairs, new windows, replacement of an electrical panel and water heater.
- Rear house - new exterior stairs, new windows new stucco on a brick fireplace, interior remodel, replacement of an electrical panel and water heater, conversion of a garage to a bedroom, and a 47 square foot addition.

The property is zoned Medium Density Residential, 2 units per acre, with a Design Control zoning overlay, and an 18 foot height limit in the Coastal Zone (MDR/2-D(18)(CZ) and is subject to the Carmel Area Land Use Plan. Improvements done at the site necessitate consideration of the following entitlements:

1. A Design Approval for exterior modifications to the buildings and property in the Design Control zoning district;
2. A Variance to allow an increase in lot coverage from 38.3% (Legal Nonconforming coverage prior to the violation) to 39.46% (allowed coverage at the site is 35%) as a result of the 47 square foot addition;
3. A Coastal Administrative Permit to allow parking within the front setback to count toward the required parking for the site, necessitated by conversion of a garage to a bedroom and construction of a fence in the side yard that limited vehicle access to the rear house; and
4. A Coastal Administrative Permit to allow development within 750 feet of known archaeological resources.

Design Review:

The colors and materials of the remodel match those of the existing structures. The structure and improvements would not be visibly impactful and would remain consistent with the character of the surrounding neighborhood. Staff finds the project is appropriate in size, configuration, materials, and colors to maintain neighborhood character and visual integrity. The proposed project meets development standards for this area, except for side and rear setbacks, and Building Site Coverage, which are existing legal nonconforming:

<u>Development Standards for MDR/2</u>	<u>Meets Requirements:</u>
PARCEL	
Density: 2 units per acre max	2 units per 0.09 acre
Floor Area Ratio: 45% max	39.46%
Building Site Coverage: 35% max	39.46% Legal nonconforming
Distance Between Structures:	
- Main to Accessory: 6 feet (minimum)	17.75 feet
ACCESSORY DWELLING UNIT	
Front Setback: 50 feet (minimum)	57 feet
Side Setback: 6 feet (minimum)	4.5 feet & 3 feet, both Legal nonconforming
Rear Setback: 6 feet (minimum)	5 feet Legal nonconforming
Maximum Height: 15 feet	10 feet

*Legal Nonconforming Structure Location (Section 20.68.040 of Title 20)*

The existing side setbacks of the rear unit are 4.5 feet on the west side and 3 feet on the east side, both of which

are less than the required six-foot minimum. The existing rear setback is 5 feet, which is less than the required six-foot minimum in the MDR zone. No structural alteration is proposed within these required setbacks, thereby allowing the legal nonconforming status of these setbacks to remain. Buildings at the site also maintained a legal non-conforming building site coverage. The maximum building site coverage for the MDR zoning district is 35%. The two existing residences on the site maintained a 38.3% lot coverage which was increased to 39.46% by the 47 square foot addition that was constructed without permits. A Variance is included in this permit to address the added lot coverage (See Variance discussion below).

#### *Variance (Section 20.78.040 of Title 20)*

Assessor's records from 2002 show the rear unit as 865 square feet and the front house as 666 feet, totaling 1,531 square feet for a 38.3% building coverage on the 3,998.56 square foot parcel, greater than the allowed 35%. A 47-foot addition increased the existing nonconformity of the building coverage to 39.46%. The addition was facilitated by structural alteration of the north wall on the rear house; therefore, the application includes request for a Variance to allow the enlargement of the rear house not in conformance with the 35% building coverage (Reference: Section 20.68.040 of Title 20 "Legal Nonconforming Structure Locations and Height"). Staff recommends granting of the Variance in this case because of the unique circumstances applicable to this case. Unique circumstances include:

1. The two existing houses constructed on the small lot in the 1930's together had a Lot Coverage of 38.3% which was considered legal but nonconforming to current building site coverage limitations of 35% on the lot;
2. The two buildings are very small in comparison to surrounding houses (666 square foot front house and 910 square foot rear house) and the building site coverage limitation significantly restricts the ability of the property owner to increase the size of these small homes without the need for demolition and new construction or a Variance; and
3. The property is only 3,998.56 square feet in size and the 35% lot coverage would limit the building footprint to no more than 1,399.5 square feet.

Staff recommends that the finding for a Variance can be made in this case. There are unique circumstances applicable to the property, the Variance would not constitute a granting of special privilege that is inconsistent with the limitations of other small lots within the vicinity zoned MDR, and the project includes an allowed use in the residential MDR zone.

#### *Parking*

In 2012, the applicant converted the garage attached to the rear dwelling unit to a bedroom, effectively eliminating the second off-street parking space required in the MDR zone. The driveway leading to this second garage was abbreviated with construction of a wall approximately 40 feet from the front setback, and with steps approximately 20 feet from the front setback. Therefore, no space on the parcel remained for a second parking space that would not encroach on a required front setback. Pursuant to Section 65852.2 of the Government Code (Accessory Dwelling Unit law), no parking space is required for the rear unit because the parcel is located within a half mile of public transit. Therefore, the total amount of off street parking required for the residential uses is two spaces. Staff recommended the wall and steps be removed to accommodate a parking space in the driveway that would count toward the required parking amount and not encroach on a required setback. The applicant was not amenable to this solution. In 2018, the applicant proposed a ramp over the steps to accommodate a parking space that would not encroach on the required setback. However, the ramp posed safety and accessibility issues. In 2019, the applicant proposed expansion of the existing one-car garage under the main house and removal of two Oak trees at the front of the house to accommodate implementation of a two-car garage. This would require demolition, excavation, and grading in an area of high archaeological sensitivity and within 750 feet of known archaeological resources. Staff has the position that although the pre-violation scenario would have allowed a garage conversion to a bedroom with a Coastal Administrative Permit and

Design Approval, the second off-street parking space would have been a non-issue since, prior to the after-the-fact site improvements of the wall and stairs, the driveway at the east side of the front house was accessible for cars to park in the garage attached to the rear house, or in that driveway. The County's practice is to require restoration for abatement of a code violation based on the Section 20.90 of the Monterey County Code. However, the parcel's archaeological context poses extenuating circumstances to a restoration requirement. Therefore, staff recommends that to avoid further ground disturbance at this sensitive site, a parking space within the front setback be allowed to count toward required parking amounts with issuance of a Coastal Administrative Permit, in this case.

#### *Archaeological Report*

The subject parcel is within 750 feet of a known archaeological resource and is mapped as being high in archaeological sensitivity. The Preliminary Cultural Resources Survey (File No. LIB170072) prepared by Susan Morley in October 2016 concludes there is no evidence of cultural resources on the parcel. Therefore, no cultural resources would have likely been affected by implementation of the 47 square foot addition.

#### *Historic Report*

The residence is more than fifty years old, which is the age for which the County requires a Phase One Historic Assessment. An assessment was prepared by Seth A. Bergstein (File No. LIB170073) which concluded the structures do not meet any criteria for historical significance. Therefore, staff required no further historic assessment.

#### CEQA:

CEQA Guidelines Section 15301 categorically exempts minor alterations to existing structures. The project includes minor alterations to existing structures including replacement of windows and construction of new exterior stairs at the front house on the property, replacement of windows, construction of new exterior stairs, new exterior stucco coating on a brick fireplace, conversion of a garage into a bedroom, and addition of 47 square feet on the rear house on the. The archaeological survey (File No. LIB170072) prepared by Susan Morley in October 2016 included analysis of accessible soils adjacent to the 47 square foot addition. This survey indicated no existing evidence for cultural resources on the parcel. The Phase One Historical Assessment (File No. LIB170073) indicates the structures do not meet any federal, state, or local qualifications for historic status. Therefore, the project is exempt from environmental review.

#### OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Carmel Highlands Fire Protection District
- Bureau of Environmental Health
- RMA-Public Works & Facilities
- RMA-Environmental Services
- Carmel Highlands Land Use Advisory Committee

#### LUAC:

The Carmel Area Land Use Advisory Committee reviewed the project on 27 February 2017 and continued review of the project to a date uncertain. The subject application came before the LUAC for review on 18 November 2019 with a recommendation for approval of the project in a 3 (ayes) - 1 (noe) decision. There was a comment from one LUAC member regarding the building coverage being over the allowed 35%. The lot is existing legal non-conforming due to building coverage of 38.3%. At less than 4,000 square feet, the subject lot is similar to many other small lots on Carmel Point that exceed building coverage and/or floor area ratio to avoid excavation below grade for maximizing development potential in this archaeologically sensitive area.

Prepared by: Jaime Scott Guthrie, AICP, Associate Planner, ext. 6414  
Reviewed by: Craig Spencer, Planning Services Manager  
Approved by: John M. Dugan, FAICP, Deputy Director of RMA Land Use and Development Services

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Plans
- Draft Conditions of Approval

Exhibit C - Vicinity Map

Exhibit D - Phase One Historic Assessment (LIB170073)

Exhibit E - Colors and Materials

cc: Front Counter Copy; Brandon Swanson, RMA Acting Chief of Planning; Cody Phillips c/o Anthony Lombardo and Associates, Agent; Carmel Pointe Properties LLC, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN160649.