



## Legislation Details (With Board Report)

**File #:** ZA 19-086 **Name:**  
**Type:** Zoning Administrator **Status:** Agenda Ready  
**File created:** 2/13/2019 **In control:** Monterey County Zoning Administrator  
**On agenda:** 2/28/2019 **Final action:**  
**Title:** PLN180385 - BALLESTEROS (CONTINUED FROM FEBRUARY 14, 2019)  
Public hearing to consider a remodel and minor structural alterations to an existing legal nonconforming two-story single family dwelling and an existing legal nonconforming guesthouse.  
Project Location: 2361 Bay View Avenue, Carmel, Carmel Area Land Use Plan, Coastal Zone  
Proposed CEQA action: Categorically Exempt Per Section 15301 (a) 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 - Historic Assessment, 6. Exhibit E - Permit History, 7. Exhibit F - LUAC Minutes, 8. Exhibit G - Correspondence, 9. RESza\_19-005\_PLN180385\_022819, 10. RESza\_19-005\_PLN180385\_022819\_CORRECTED\_031919

Date	Ver.	Action By	Action	Result
2/28/2019	1	Monterey County Zoning Administrator		

### PLN180385 - BALLESTEROS (CONTINUED FROM FEBRUARY 14, 2019)

Public hearing to consider a remodel and minor structural alterations to an existing legal nonconforming two-story single family dwelling and an existing legal nonconforming guesthouse.

**Project Location:** 2361 Bay View Avenue, Carmel, Carmel Area Land Use Plan, Coastal Zone

**Proposed CEQA action:** Categorically Exempt Per Section 15301 (a) of the CEQA Guidelines

#### RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

1. Find that the project involves a minor alteration of an existing single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301 (a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
2. Approve a Coastal Development Permit and Design Approval to allow repairs and minor alterations to an existing 2,886 square foot two-story single family dwelling and an existing 354 square foot guesthouse including maintaining legal nonconforming structure height, floor area ratio and setback.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to seven (7) conditions of approval.

#### PROJECT INFORMATION:

**Agent:** Sean Lopes

**Owner:** Daniel Ballesteros

**APN:** 009-422-006-000

**Zoning:** Medium Density Residential, 2 Units per Acre with an 18 foot height limitation, Design Control Overlay, Coastal Zone or "MDR/2-D(18)(CZ)"

**Parcel Size:** 0.13 acres (5,494.33 square feet)

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

**Flagged and Staked: No**

**SUMMARY:**

On February 14, 2019, the Zoning Administrator received and approved a request from the project agent to continue the hearing on the project to February 28, 2019 due to a scheduling conflict.

The project involves an extensive remodel of an existing single-family dwelling and detached guesthouse. The existing single-family dwelling includes the removal of a 166 square foot bonus room and replacement of the bonus room with a roof deck above the existing garage, removal of two bay windows on the second story and construction of new window and door openings throughout, demolition of an additional 62 square feet (228 square feet in total), reconfiguration of interior walls, and a change to all exterior sidings, trims, and roofing materials. The single-family dwelling is a legal non-conforming structure as to height (18 feet allowed; 22.12 feet existing) and the dwelling together with the guesthouse exceed the maximum allowable floor area ratio for the site (2,475.45 square feet allowed; 3,240 square feet existing). Proposed alterations to the existing guesthouse include reconfiguration of interior walls, replacement of existing windows, and a change to all exterior sidings, trims and roofing materials. The detached guesthouse is a legal non-conforming structure as to setbacks (6 foot side/rear setback allowed; 1 foot side setback and 2 foot rear setback existing).

A Coastal Development Permit is required to allow structural repairs and alterations to the non-conforming structures while maintaining the nonconforming height, floor area and setback. In this case, the structural alterations are mostly cosmetic in nature and major structural components of the structure including exterior walls and roof framing will remain. The floor area ratio will be reduced from 3,240 square feet to 3,012 square feet by removing a small bonus room above the garage and additional square footage within the existing dwelling. A Design Approval is included for the exterior alterations to the window and door openings, siding, roofing and other architectural treatments of both the single-family dwelling and detached guesthouse. The applicant desires to change the siding, fenestration, and overall appearance of the home without changing the height or location of the existing structures.

The project is located in an archaeologically sensitive area however, no ground disturbance or new building footprints are proposed.

**DISCUSSION:**

The project proposes a remodel and minor structural alterations to an existing single-family dwelling and guesthouse including, demolition of approximately 228 square feet and remodel an existing 2,886 square foot two-story single family dwelling and detached guesthouse.

The existing single family dwelling and detached guesthouse were constructed in 1938, prior to the establishment of building permits and zoning for this area. The dwelling exceeds the maximum permissible height for the zoning district and the structures on the property (house and guesthouse) exceed the floor area ratio (FAR) maximum for the lot. Additionally, the guesthouse encroaches into the side and rear yard setbacks. The height, FAR and setbacks were adopted after construction of the structures on the site making the structures legal but nonconforming to subsequently adopted regulations (legal nonconforming). As described in Section 20.68.040 of the zoning regulations, ordinary repair and maintenance, including structural repairs of legal nonconforming structures are allowed provided that no structural alterations are made, and such work does not exceed 50% of the appraised value of the structure in any one year. Any further repairs and maintenance would require the site to conform to the current land use regulations. Additional repairs and maintenance can be permitted with a Coastal Development Permit.

The project includes a Coastal Development Permit and Design Approval to allow “additional repairs and

maintenance to the single-family dwelling and guesthouse. In this case, repair and maintenance are proposed to include removal of 228 square feet, removal of dormers on the second floor and new window and door openings, extensive interior remodeling and all new siding, trim, roofing materials and colors. Overall the FAR will be reduced from 59% (3,240 square feet) to 54.8% (3,012 square feet), but will still exceed the maximum floor area permitted in the MDR Zoning district of 45%. The current height of the existing single-family dwelling is 22.12 feet. The current setbacks for the detached guesthouse is: 74 foot front, 1 foot side, and 2 foot rear. Both the height of the existing single-family dwelling and setbacks for detached guesthouse are proposed to be maintained as a part of this project.

*Development Standards:*

The property is subject to the policies and regulations contained in the 1982 Monterey County General Plan (General Plan), the Carmel Area Land Use Plan (CAR LUP) and Coastal Implementation Plan, Part 4 (CIP) and the Monterey County Zoning Ordinance (Title 20), as well as required by the California Environmental Quality Act (CEQA). Per Section 20.68.040.C and 20.44.040 of Title 20, a Coastal Development Permit and Design Approval is required for the proposed development. The subject parcel is zoned Medium Density Residential, 2 units per acre with an 18 foot height limitation, and a Design Control overlay within the Coastal Zone or “MDR/2-D(18)(CZ).” As described above, the project is legal nonconforming as to height, FAR and setbacks. The project currently meets the setbacks and building site coverage requirements for this zoning district. However, the project proposes to keep the legal nonconforming height and reduce the FAR but still exceed the maximum allowed on in the zoning regulations.

*Main Structure Setback and Height:*

<u>Required:</u>	<u>Proposed:</u>
Front: 20 feet min.	Front: 20 feet
Side: 5 feet min.	Side: 7 feet
Rear: 10 feet min.	Rear: 10 feet
<b>Height: 18 feet max.</b>	<b>Height: 22.12 feet</b>

*Accessory Structure Setback and Height:*

<u>Required:</u>	<u>Proposed:</u>
Front: 50 feet min.	Front: 74 feet
<b>Side: 6 feet min.</b>	<b>Side: 1 foot</b>
<b>Rear: 6 feet min.</b>	<b>Rear: 2 feet</b>
Height: 15 feet max.	Height: 15 feet

*Building Site Coverage and Floor Area Ratio (FAR):*

<u>Required:</u>	<u>Proposed:</u>
Coverage: 35%, 1,923.02 s.f.	Coverage: 34.8%, 1,911 s.f.
<b>FAR: 45%, 2,475.45 s.f.</b>	<b>FAR: 54.8%, 3,012 s.f.</b>

As discussed above, legal nonconforming structures are allowed to maintain their nonconforming condition but are limited to ordinary repairs and maintenance unless the site is brought into conformance with current regulations. This project proposes to perform additional repairs, maintenance and alterations while maintaining the nonconforming conditions. For this reason, a Coastal Development Permit is required. The Coastal Development Permit is discretionary. Staff is recommending approval of the additional repairs, maintenance, and alterations because the changes are largely cosmetic in nature, and the framing and structural components of the house and guesthouse will remain in place with new window and door openings created in the existing framing.

### Design Review

The project site is designated as a Design Control Zoning District (“D” zoning overlay), which is intended to regulate the location, size, materials and colors of the structures to assure protection of the public viewshed and neighborhood character. The existing single family dwelling has an architectural style of a French Mansard roofed cottage. The project proposes to change the exterior features to have a contemporary, modernized architectural style and associated colors and materials including: grayish beige cement plaster with off-white and grayish board and batten siding, gray shingle siding, and a metal and wood arbor/canopy. The architectural style of the homes in the neighborhood ranged between contemporary, Spanish and ranch style homes. The materials, location and nature of the project are consistent with the overall diversity of neighborhood character and will not detract the visual integrity of the site.

The taller, nonconforming single family dwelling does not contrast with surrounding development despite the extra height and the mass of the home when viewed from the surrounding streets and neighborhood. The height and mass appear similar to other developed lots in the area when viewed from the street. The guesthouse to be remodeled is located in the backyard and is not visible from the street. Maintaining the nonconforming height, floor area and setback conditions will not conflict with the neighborhood character.

The project will not impact any visual resources viewed from a public viewing area. Map A of the Carmel Area LUP illustrates that the subject property is not located within a viewshed area, as the property is not visible from Highway 1 or any other major public use area such as Scenic Road, Carmel Beach, or Point Lobos Reserve. Therefore, the project would not create any substantial visual impacts.

### CEQA:

The project is categorically exempt from environmental review pursuant to Section 15301 (a) of the CEQA Guidelines. This exemption applies to interior and exterior alterations of an existing structure. The interior remodel and demolition of a two-story single family dwelling (approximately 2,886 square feet) and detached guesthouse is consistent with this exemption. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project is not located on a hazardous waste site, near a scenic highway or historical resource. Therefore, the project is categorically exempt.

### OTHER AGENCY INVOLVEMENT:

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

- RMA-Public Works
- Environmental Health Bureau
- RMA-Environmental Services
- Cypress FPD

### LUAC

The project was reviewed by the Carmel Unincorporated/Carmel Highlands LUAC on January 22, 2019 and despite not fully being fond of the proposed architectural changes, the project was given a recommendation of approval by a vote of 3-2-0. The LUAC commented (**Exhibit F**) on the proposed materials and colors, highlighting the windows as one of the major items. After this meeting, the agent and owner made revisions to the plans to change the proposed windows from five square windows to four, 6 foot vertical windows as shown in the attached draft resolution. These changes were also forwarded as a notification to the LUAC.

Prepared by: Jacquelyn M. Nickerson, Assistant Planner, Ext. 5240

Reviewed by: Craig Spencer, Interim Planning Services Manager

Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and  
Development Services

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Conditions
- Site Plans
- Colors and Materials

Exhibit C - Vicinity Map

Exhibit D - Historic Assessment

Exhibit E - Permit History

Exhibit F - LUAC Minutes

Exhibit G - Correspondence

cc: Front Counter Copy; Zoning Administrator; Brandon Swanson, Interim Chief of Planning, Craig Spencer, Interim RMA Services Manager; Sean Lopes, Agent; Daniel Ballesteros, Owner; Krista Ostoich, Interested Party; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN180385