

Attachment B

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b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing _____

The findings or decision or conditions are not supported by the evidence X

The decision was contrary to law X

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

See attached.

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

See attached.

9. You must pay the required filing fee of \$3,716.10 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

This project is in the Coastal Zone.

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board by the deadline. A mailed copy of the appeal and filing fee will be accepted only if it is received by Clerk of the Board by the deadline. The appeal and applicable filing fee should be mailed to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and received by Clerk of the Board by the deadline.

DocuSigned by:

APPELLANT SIGNATURE

Andrew Berlin

Date: 4/13/2026

RECEIVED SIGNATURE

[Handwritten Signature]

Date: 4/13/26

THE LAW OFFICE OF AENGUS L. JEFFERS

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April 13, 2026

VIA ELECTRONIC SUBMITTAL

Monterey County Board of Supervisors
Attn: Clerk of the Board
168 West Alisal
P.O. Box 1728
Salinas, California 93902

Re: Appeal of April 9, 2026 Zoning Administrator Decision on PLN110257-AMD1

To Whom it May Concern:

At the request of our client, Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust (“Applicant” and “Appellant”), I am submitting the attached materials comprising the appeal of the denial of the Minor and Trivial Amendment to a Combined Development Permit to construct a replacement fence and gate (“Project”) on the property located at 36000 Highway One (APN 243-231-027-000), Big Sur in the Big Sur Planning Area (the “Property”).

The enclosed application materials consist of the following:

- One (1) executed and completed Notice of Appeal;
- One (1) copy of Zoning Administrator Resolution No. 26-024

BASIS FOR THE APPEAL

The findings and decision are not supported by the evidence, and the decision is contrary to the law, including but not limited to, the evidence set forth below:

1. **Finding 2, Evidence (a):** The project was not processed in accordance with the requirements of the Zoning Ordinance, specifically Section 20.44.040.E, which requires that the Planning Commission is the Appropriate Authority to consider a Design Approval within a scenic corridor. The project could not have been approved by the Zoning Administrator.
 - a. Monterey County Code §20.44.040.E states that the Planning Commission shall be the Appropriate Authority to consider Design Approval applications for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designated as 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 application under Monterey County Code §20.44.040.C.

2. **Finding 2, Evidence (b):** The Zoning Administrator determined that the proposed amendment was substantive due to the project's location within a scenic highway (Highway 1) and should have been considered by the Planning Commission. Therefore, the Zoning Administrator denied this application due to incorrect procedure.
- a. Monterey County Code §20.44.040.E states that the Planning Commission shall be the Appropriate Authority to consider Design Approval applications for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designated as 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 §20.06.120. Therefore, the Zoning Administrator was the Appropriate authority to consider the Minor and Trivial Amendment Design Approval application under Monterey County Code §20.44.040.C.
 - b. Contrary to Finding 2, Evidence (e), while the project site is located along Highway 1, it is expressly exempt from Big Sur's Critical Viewshed as it is located within 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 ("Procedures for Applying the General Scenic Resources Policies That Apply Outside the Critical Viewshed"). Therefore, the Zoning Administrator was the Appropriate authority to consider the Minor and Trivial Amendment Design Approval application under Monterey County Code §20.44.040.C.

While the Zoning Administrator's denial of the Project was based entirely on procedural grounds rather than the Project's merit and consistency with the Big Sur LCP, we do support Planning Staff's analysis from the Zoning Administrator hearing staff report recommending approval of the Project as consistent with the Big Sur LCP.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Aengus L. Jeffers, Esq.

ALJ:lml

Enclosures

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

In the matter of the application of:

BERLIN ANDREW T TR (PLN110257-AMD1)

RESOLUTION NO. 26-024

Resolution by the County of Monterey Zoning
Administrator:

- 1) Finding the project decision Statutorily Exempt pursuant to CEQA section 21080(b)(5); and
- 2) Denying a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257) that allowed the demolition of an existing 1,960 square foot one-story single family dwelling and 255 square foot guest unit and the construction of a 9,255 square foot two-story single family dwelling, new retaining walls and associated grading within 750 feet of an archaeological resource and within 50 feet of a coastal bluff and a Lot Line Adjustment to merge two parcels into one parcel. This Minor and Trivial Amendment would allow replacing 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and a dark bronze entrance gate.

[BERLIN ANDREW T TR, 35986 HWY 1, Big Sur Coast Land Use Plan, APN: 243-231-027-000].

The BERLINE application (PLN110275-AMD1) came before the County of Monterey Zoning Administrator on March 26, 2026, and April 9, 2026. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS REQUIREMENTS** – The County has received and processed an amendment to previously approved Combined Development Permit (HCD Planning File No. PLN110257; Planning Commission Resolution No. 11-048).
EVIDNECE: a) On August 18, 2025, an application for a Minor and Trivial Amendment (PLN110257-AMD1) was submitted to HCD-Planning staff. The Minor and Trivial Amendment application includes Design Approval pursuant to Monterey County Code Chapter 20.44 as a component.
b) On December 14, 2011, the Monterey County Planning Commission approved PLN110257 for a Combined Development Permit consisting of: 1) Coastal Administrative Permit to allow the demolition of an existing 1,960 square foot one-story single family dwelling and 66

square foot guest unit and the construction of a 9,255 square foot two-story single family dwelling, new retaining walls, perimeter fencing, and associated grading (2,573 cubic yards cut, 2,573 cubic yards fill); 2) Coastal Development Permit for development within 750 feet of an archaeological resource; 3) Coastal Development Permit for development within 50 feet of a coastal bluff; 4) Coastal Development Permit for a Lot Line Adjustment to merge two parcels into one parcel; and 5) Design Approval. Approval of this permit included 31 conditions of approval.

- c) All previously approved 31 conditions of approval are in a “Met” or “On-going” status. No Conditions of Approval from PLN110257 are being carried forward to this Amendment (PLN110257-AMD1) due to the minor project scope of this project.
- d) The findings and evidence from PLN110257 (Resolution No. 11-048) have been carried forward to this application, PLN110257-AMD1, by reference. PLN110257 remains as the operative permit. Denial of this Amendment does not alter the original approval.
- e) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed amendment are found in project file PLN110257 and PLN110257-AMD1.

2. FINDING: **CONSISTENCY** – The Project, as conditioned, is not 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:
 - 1982 Monterey County General Plan;
 - Big Sur Coast Land Use Plan;
 - Monterey County Coastal Implementation Plan – Part 3; and
 - Monterey County Zoning Ordinance - Coastal (Title 20).

The project was not processed in accordance with the requirements of the Zoning Ordinance, specifically Section 20.44.040.E, which requires that the Planning Commission is the Appropriate Authority to consider a Design Approval within a scenic corridor. The project could not have been approved by the Zoning Administrator.

- b) Project. The Project includes demolishing 53.5 linear feet of the existing front property line fencing and gate, and constructing a replacement stone wall (32 linear feet) and entrance gate (21.5 linear feet). The proposed stone wall would replace a portion of an existing louvered wood fence. The proposed dark bronze entrance gate will replace the existing wood entrance gate. A wood and metal side gate will be installed perpendicular to the entrance gate, but behind the proposed stone wall. The remainder of the property line will continue to be improved with the existing louvered wood fence, which will be repaired as needed. This project was scheduled for consideration by the Chief of Planning on December 3, 2025, but was referred to the Zoning Administrator due to public comment. The Zoning Administrator determined that the proposed amendment was substantive due to the

project's location within a scenic highway (Highway 1) and should have been considered by the Planning Commission. Therefore, the Zoning Administrator denied this application due to incorrect procedure. (see Finding 2, Evidence "a", above). The Zoning Administrator did not make a recommendation on the proposed design.

- c) Allowed Use. The property is located at 35986 Highway 1, Big Sur Coast Land Use Plan, APN: 243-231-027-000. The parcel is zoned Rural Density Residential, 40 acres per unit, Design Control overlay, with a 14-foot height limit, in the Coastal Zone or "RDR/40-D(14')(CZ)", which allows for construction of accessory structures to any permitted use. The proposed project includes replacing 53.5 feet of an existing front property line fence and entrance gate. The previously approved Combined Development Permit (PLN110237, Resolution No. 11-048) allowed construction of a single-family dwelling and other site improvements, including an entrance gate and perimeter fencing. Therefore, the project includes allowed uses accessory to the permitted residential use. All other project components of the previously approved Combined Development Permit (PLN110257) remain the same (see Finding No. 1, Evidence "b").
- d) Lot Legality. The subject property (APN: 243-231-027-000) is recognized by the County of Monterey as a legal lot of record per recordation of a Certificate of Compliance (Document #2012021134).
- e) Critical Viewshed/Design. According to Policy 3.2.2 of the Big Sur Coast Land Use Plan (BSCLUP), the property is located within a critical viewshed. The property is located near the Abalone Cove turnoff, which is a popular public-viewing area within Big Sur. Policy 3.2.4.F of the BSCLUP states, "the southernmost developed parcel north of Abalone Cove to the northernmost developed parcel south of Garrapata Creek shall be permitted to be used for residential purposes, subject to policies of Policy 3.2.4 (Land Not in the Critical Viewshed) of this plan." Accordingly, while the project site is located along Highway 1 and thus within the Critical Viewshed, it is only subject to the standards of Policy 3.2.4 (Land Not in the Critical Viewshed). Furthermore, pursuant to LUP Policy 3.2.5.C.2, private highway improvements such as fences and gates are exempt from Key Policy 3.2.1, which prohibits development within the Critical Viewshed, provided they are designed to be complementary to the rural setting and character of Big Sur, with a preference for natural materials.

The stone fence replacement is proposed to match the existing residence's stone exterior. No exterior lighting is proposed.

- f) Development Standards. The development standards for the RDR zoning district are identified in Title Section 20.16.060. As proposed, the project is designed below the allowable height for accessory structures (15 feet). The proposed fence and entry gate are located along the front property line. However, because the proposed development does not exceed 6 feet in height, it is not considered a structure and thus is not subject to setback requirements for accessory structures. This Amendment does not alter the site coverage approved with PLN110257.

Therefore, as proposed, the project conforms with the applicable development standards of the RDR zoning district.

- g) Cultural Resources. According to County resources maps, the subject property is located within 750 feet of a known archaeological resource. Pursuant to Section 20.145.120.B.1 of the Coastal Implementation Plan, Part 3, an archaeological survey was previously prepared for the site. The report identified small quantities of shellfish and abalone found near the bluff, and a positive archaeological site located on an adjacent property. However, no evidence of cultural resources was found around the proposed construction site of the main residence. The proposed development is located within previously disturbed portions of the property. With the project being denied through this resolution, no ground disturbance will occur.
- h) Public Comment. A member of the public submitted concerns regarding the proposed design and materials of the replacement fence, citing it being better suited for a subdivision or “upscale neighborhood,” conflicting with the Big Sur Coast LUP’s rustic character requirement, and impacting the character of the scenic corridor (Highway 1).
- i) Land Use Advisory Committee (LUAC) Review. Based on the Board of Supervisors Guidelines, the project was not referred to the Big Sur LUAC. As a Minor & Trivial Amendment, the project does not warrant LUAC review because the project does not involve the granting of a Design Approval at a public hearing, the preparation of an Initial Study or Environmental Impact Report, or a lot line adjustment in the Coastal Zone, or a Variance. The public commentor’s request for a public hearing does not independently warrant LUAC review.
- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257 and PLN110257-AMD1.

3. FINDING: **SITE SUITABILITY** – The site is physically suitable for the proposed development and/or use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, CalFire (Big Sur), and the Environmental Health Bureau. County staff reviewed the application materials and plans to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development.
 - b) The following technical reports were previously prepared for this property and are applicable to the proposed development:
 - Archaeological Analysis and Testing (LIB110286) prepared by Gary Breschini of Archaeological Consulting, Salinas, CA, June 16, 2011
 - Archaeological Analysis and Testing (LIB110287) prepared by Gary Breschini of Archaeological Consulting, Salinas, CA, June 21, 2010

Upon independent review, staff concurs with the conclusions of the report. There are no physical or environmental constraints that render the site physically unsuitable for the proposed project.

- c) Staff conducted a site inspection on November 12, 2025, to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257 and PLN110257-AMD1.

4. 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 HCD-Planning, HCD-Development Services, HCD-Environmental Services, CalFire (Big Sur), and the Environmental Health Bureau. The respective agencies 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 facilities are provided. Denial of this Amendment would not alter these facilities. The Environmental Health Bureau has reviewed the project and made no comments.
 - c) Staff conducted a site inspection on November 12, 2025, to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257 and PLN110257-AMD1.

5. FINDING: NO VIOLATIONS – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed County of Monterey HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
 - b) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN110257 and PLN110257-AMD1.

6. FINDING: PUBLIC ACCESS – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) Figure 2 – Shoreline Access Plan, Northern Section, of the Big Sur Coast LUP indicates that the subject property is in an area where public access is required (Priority 2 area). As detailed in the preceding Finding No. 2

and supporting evidence, Big Sur Coast LUP Chapter 3.2 and CIP section 20.145.030.B.3.b allow for private highway improvements like fences. Big Sur Coast LUP Policy 6.1.5.F.1 states, “Future land use planning shall be compatible to provide visual access. To this end, all new structures and ancillary facilities should be located outside of the public viewshed as defined in Chapter 3.” Public Access policies (Chapter 6.1 of the Big Sur Coast LUP), specifically visual access policies, need to be taken into consideration when reviewing the proposed fence design. Visual Access is access for scenic viewing of the shoreline and/or ocean from either a vista point or public road, or trail. Section 20.145.150 of the Big Sur Coast CIP (Public Access Development Standards) states “[T]he protection of visual access should be emphasized ...[and] Visual access shall be maintained by directing all future development out of the viewshed.” The proposed replacement fence was designed to ensure existing ocean views (heavily filtered and screened by mature trees) will remain. Denial of this Amendment will retain the originally designed fence and gate, as approved and constructed, ensuring no change to the public viewshed.

- b) Figure 3 – Trails Plan, North Section, of the Big Sur Coast LUP indicates that the subject property neither contains an inland trail corridor, a through coastal access corridor, public trail, private trail, access to Ventana Wilderness, nor is identified as an area for future public acquisition or a proposed trail.
- c) Although the subject property is shown in an area where the applicable Local Coastal Program requires public access (Figure 2), no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property. Additionally, denial of the proposed development will not alter the visual access from Highway 1 or any local viewshed locations.
- d) Staff conducted a site inspection on November 12, 2025. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- e) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN110257 and PLN110257-AMD1.

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

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) section 21080(b)(5) statutorily exempts projects that a public agency rejects or disapproves.
 - b) The project includes the construction of a replacement fence. The replacement fence was proposed to be in the same area as the existing fence and serve the same purpose. The Zoning Administrator disapproved this project.
 - c) No adverse environmental effects were identified during staff review of the development application or during a site visit on November 12, 2025.
 - d) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN110257 and PLN110257-AMD1.

8. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** a) Board of Supervisors. Pursuant to Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20), an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
- b) California Coastal Commission. Pursuant to Section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is subject to appeal by/to the California Coastal Commission because it involves development between the first public road and the sea.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the County of Monterey Zoning Administrator does hereby:

- 1) Find the decision to deny the project is subject to a Statutory Exemption pursuant to CEQA section 21080(b)(5); and
- 2) Deny a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257) that allowed the demolition of an existing 1,960 square foot one-story single family dwelling and 255 square foot guest unit and the construction of a 9,255 square foot two-story single family dwelling, new retaining walls and associated grading within 750 feet of an archaeological resource and within 50 feet of a coastal bluff and a Lot Line Adjustment to merge two parcels into one parcel. The Minor and Trivial Amendment, if approved, would have allowed replacing 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and a dark bronze entrance gate.

All of which are in general conformance with the attached sketch, attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 9th day of April, 2026.

DocuSigned by:

Mike Novo

8D45DC219AC247C

Mike Novo, AICP
Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON **4/10/26**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **4/20/26**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER

INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

