

NO. 000579

A. P. # 243-231-018-000

In the matter of the application of
Howard and Jeannine Dickstein (PLN000579)

FINDINGS AND DECISION

to allow a **Combined Development Permit** in accordance with Title 20 (Zoning) Chapter 21.210 (Combined Development Permits) of the Monterey County Code, for a Combined Development Permit consisting of an Administrative Permit to allow for the construction of a 425 square foot attached guest house; a Variance for reduction in a side yard setback from the required 20 feet to 3 feet; a Coastal Development Permit for development within 100 feet of a mapped Environmentally Sensitive Habitat; and Design Approval; located at 35620 Highway 1, south of Garrapata Creek bridge, Rocky Point area of Big Sur, Coastal Zone, came on regularly for meeting before the Zoning Administrator on April 26, 2001.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

1. **FINDING:** The subject Combined Development Permit, as described in condition #1, is for an Administrative Permit to allow for the construction of a 425 square foot attached guesthouse and grading (124 cu. yds. cut/fill); a Variance for reduction in a side yard setback from 20 feet to 3 feet; a Coastal Development Permit for development within 100 feet of a mapped Environmentally Sensitive Habitat; and Design Approval. The property is located at 35620 Highway One in the Big Sur area of the Coastal Zone. The parcel is zoned "WSC/40 (CZ)" or Watershed and Scenic Conservation, 40 acres/unit - Design Control District. Except for the Variance request, the project described in the application and accompanying materials, and as conditioned, conforms with the plans, policies, requirements and standards of the Big Sur Land Use Plan, Big Sur Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, or any other applicable provisions of Title 20 and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The certified Big Sur Land Use Plan
- b) The certified Monterey County Coastal Implementation Plan regulations for Watershed and Scenic Conservation or the "WSC/40 (CZ)" District in the Coastal Zone, and
- c) Chapter 20.145 Monterey County Coastal Implementation Plan regulations for development in the Big Sur Land Use Plan.

- d) Section 20.64.020 of the Monterey County Coastal Implementation Plan regulations for Guesthouses.

EVIDENCE: The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

EVIDENCE: The project planner conducted a site visit on February 7, 2001 to verify that the proposed project complies with the Monterey County Coastal Implementation Plan (Part 3).

EVIDENCE: Design Approval Request form with plans recommended for approval by Big Sur Land Use Advisory Committee.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: The project, as staked and flagged will not have an adverse visual impact from Highway 1. The project was designed to fit behind an existing retaining wall, and will be no higher than said retaining wall.

EVIDENCE: A Biologic Report was prepared for the site by Richard H. Robinson on January 3, 1985; and an updated report was prepared by Jud Vandevere on March 6, 2001. Although County resource maps show environmentally sensitive habitat in the immediate area, the biologic reports showed no sensitive habitat within 100 feet of the property.

EVIDENCE: The subject property is described as an area where the Local Coastal Program requires access, based on section 20.70.050.B.4.c.i and ii. A pedestrian access easement was placed on the parcel as a result of a previously approved permit.

2. **FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE: Section 15301 of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application.

3. **FINDING:** Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of Title 20 is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

EVIDENCE: Staff determined that the proposed location of the guesthouse best meets the policies and goals of the Big Sur Land Use Plan and Implementation Plan. Developable area is limited on the parcel. This is because the 2.01-acre parcel does not conform to the zoning district's 40-acre minimum lot size; and, there is an existing open space easement and pedestrian easement on the parcel. The proposed guesthouse has been designed in a location that would not impact views from Highway One because it will replace, and be no higher than, an existing retaining wall. Other parcels located in the Big Sur area and zoned WSC have been allowed guesthouses.

EVIDENCE: The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

4. **FINDING:** The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

EVIDENCE: Other property owners in the Big Sur area have received similar variances for setback reductions. Specifically, resolution PC06333 was for a single-family dwelling,

guesthouse and variance for reduction in front setback (Assessor's Parcel Number 419-281-004-000).

EVIDENCE: The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.

5. **FINDING:** The Variance does not grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: The use is allowed per Section 20.17.040, Principal Uses Allowed in the WSC (CZ) zoning district.

6. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, applicable Fire Department, and Water Resources Agency. The respective departments 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; or the County in general.

EVIDENCE: File and application materials contained in the project file.

7. **FINDING:** The project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Sections 20.78.050.E, 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit allows for an Administrative Permit and Design Approval to allow for the construction of a 425 square foot attached guesthouse and grading (124 cu. yds. cut/fill); a Coastal Development Permit for development within 100 feet of a mapped Environmentally Sensitive Habitat; and a Variance for reduction in a side yard setback from 20 feet to 3 feet. The property is located at 35620 Highway 1 (Assessor's Parcel Number 243-231-018-000), south of Garrapata Creek Bridge, Rocky Point area of Big Sur. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. 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 Planning and Building Inspection. 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.
(Planning and Building Inspection)

Prior to Issuance of Building and Grading Permits:

2. 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. **(Planning and Building Inspection)**
3. The applicant shall record a notice which states: "A Combined Development Permit (Resolution 000579) was approved by the Zoning Administrator for Assessor's Parcel Number 243-231-018-000 on April 26, 2001. The permit was granted subject to 16 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
4. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
5. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
6. Prior to issuance of building or grading permits, final building plans shall be reviewed by a registered geotechnical engineer to ensure that development will be compatible with site and local conditions. **(Planning and Building Inspection)**
7. A drainage plan shall be prepared by a registered civil engineer or architect that includes routing stormwater runoff from the proposed guesthouse to the existing drainage system which discharges directly to the creek. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resource Agency)**
8. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection)**

9. Prior to issuance of a building permit, or use of an existing structure as a guesthouse, the applicant shall submit for review and approval of the Director of Planning and Building Inspection, and subsequently record, a deed restriction stating the regulations for guesthouses, as follows:
- a. Only one guesthouse shall be allowed per lot.
 - b. Detached guesthouses shall be located in close proximity to the principal residence.
 - c. Guesthouses shall share the same utilities with the main residence, unless prohibited by public health requirements.
 - d. The guesthouse shall contain no kitchen or cooking facilities, including but not limited to microwave ovens, hot plates, and toaster ovens.
 - e. There shall be a maximum of 6 linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of 8 square feet of cabinet space, excluding clothes closets.
 - f. Guesthouses shall not exceed 425 square feet of livable floor area.
 - g. Guesthouses shall not be separately rented, let or leased from the main residence whether compensation be direct or indirect.
 - h. Subsequent subdivisions which divide a main residence from a guesthouse shall not be permitted.
 - i. The guesthouse shall be designed in such a manner as to be visually consistent and compatible with the main residence on site and other residences in the area.
 - j. The guesthouse height shall not exceed 12 feet nor be more than 1 story. Additions to height and placement of guesthouses over a 1-story structure, such as a garage, may be considered by Coastal Development Permit (ZA) when intended to provide for architectural consistency and compatibility with the main residence. **(Planning and Building Inspection)**

Prior to Final Building Inspection/Occupancy

10. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**
11. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Landscaping plans shall include the removal of all non-native vegetation. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building**

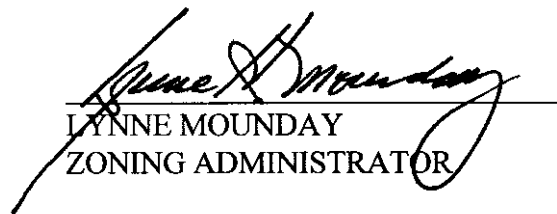
Inspection)

12. The addition is over 25% of the floor area of the existing structure; therefore, roof for the entire structure shall be a Class "A" roof. **(California Department of Forestry- Big Sur)**
13. Smoke alarms shall be installed so that all smoke alarm sounders sound whenever any smoke alarm is actuated. **(California Department of Forestry- Big Sur)**
14. Fire department inspection is required prior to building department final. **(California Department of Forestry- Big Sur)**

Continuous Permit Conditions

15. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
16. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 26th day of April, 2001.


LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON APR 27 2001

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE MAY - 7 2001

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE BOARD OF SUPERVISORS. IT IS NOT APPEALABLE TO THE COASTAL COMMISSION.

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

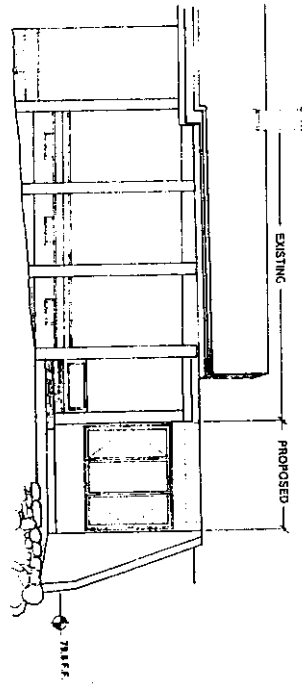
1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

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.

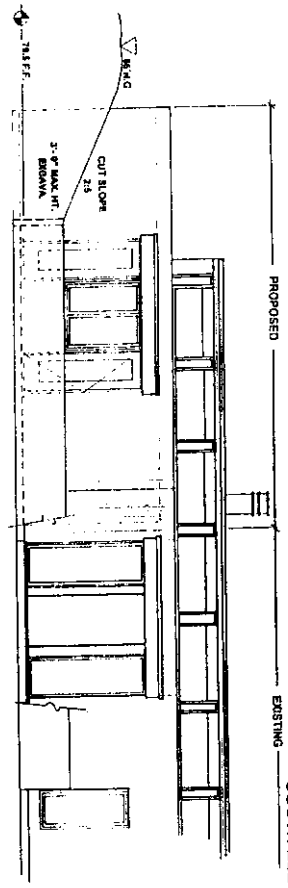
Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Monterey.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

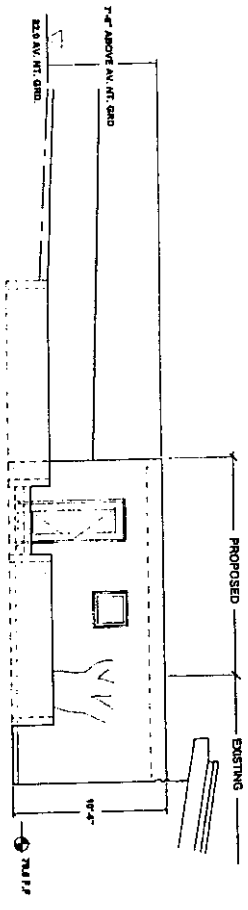
NORTH ELEVATION



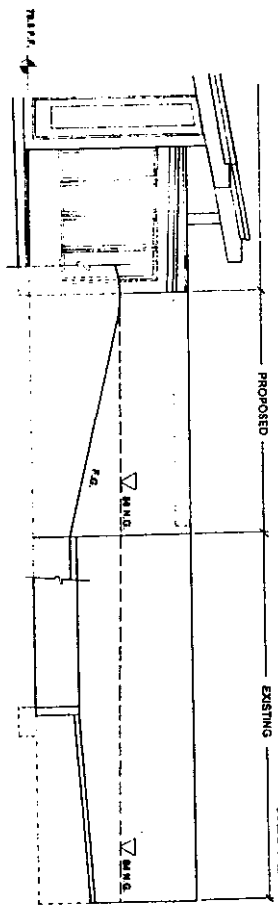
SOUTH ELEVATION



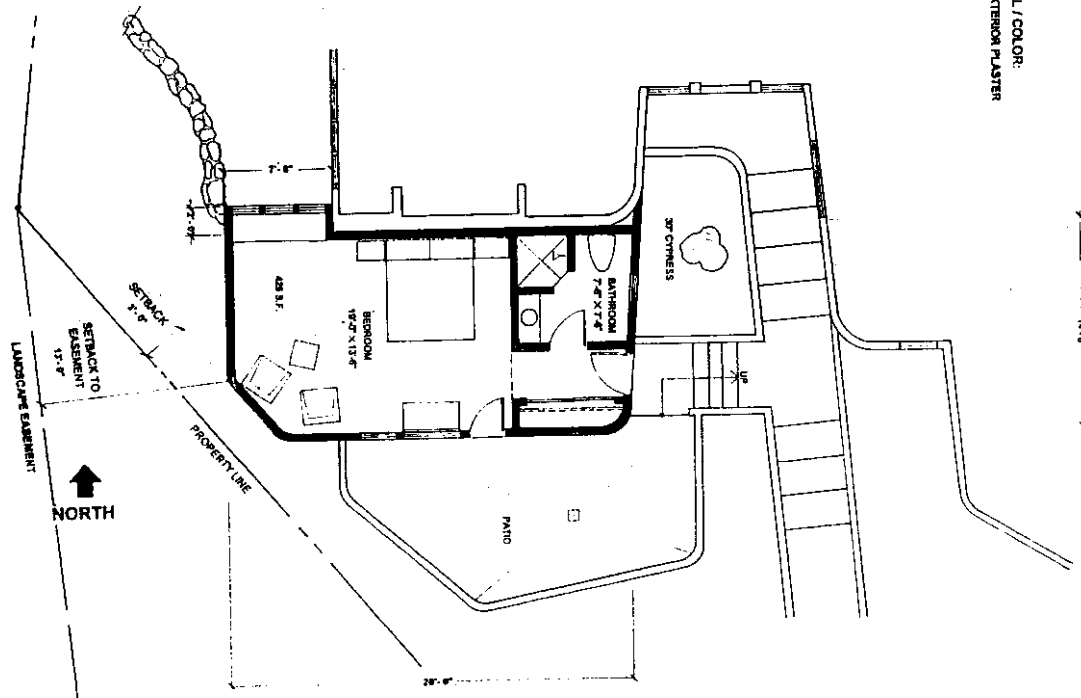
EAST ELEVATION



WEST ELEVATION



MATERIAL / COLOR:
FAINTONE EXTERIOR PLASTER



<p>Carver + Schickelanz Architects</p> <p>1000 10th Street, Suite 100, San Francisco, CA 94103 415.774.4444 www.carver-schickelanz.com</p>	<p>DICKSTEIN/ENGLISH RESIDENCE ATTACHED GUESTHOUSE ADDITION GARRAPATA CREEK, BIG SUR</p>	<p>DATE: 08-20-2010 DRAWN: SCHICKELANZ CHECKED: SCHICKELANZ SCALE: AS SHOWN</p>	<p>NO. 2</p>	<p>REVISIONS</p> <table border="1"> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>									