

# Attachment A

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## **ATTACHMENT A DISCUSSION**

### **PROJECT DESCRIPTION:**

The proposed project requires approval of a Design Approval of Revised Project Plans (Attachment B) to allow a new 1,938 square foot residential addition (893 square foot second-story master bedroom addition; 1,010 square foot main level garage addition; 35 square foot elevator addition), 197.5 square foot upper-level deck addition; and a new attached 18' 5.5" tall privacy wall extended off the proposed addition that has been negotiated between the project applicant (sometimes referred to as "owner") and the appellant. The property is located at 173 Spindrift Road, Carmel (Assessor's Parcel Number 241-301-014-000) in the Carmel Area Land Use Plan area of the Coastal Zone of the County of Monterey.

### **APPEAL:**

On June 26, 2014, the Monterey County Zoning Administrator found the project categorically exempt pursuant to the California Environmental Quality Act (CEQA) and approved the Combined Development Permit. An appeal was timely filed by Evergreen Financial Group ("appellant") on July 11, 2014. The Board of Supervisors took action on the appeal on September 9, 2014 to deny the appeal and approve the project. Upon receipt of the County's Final Local Action Notice (FLAN), California Coastal Commission Staff notified County Staff that the subject property is located within an area of the Carmel Areal Land Use Plan for which the County's Local Coastal Program was not certified. Therefore, the Coastal Commission retained project permitting authority and the County's jurisdiction is limited to project Design Approval. Because the property is within an area for which the County's Local Coastal Program was not certified by the Coastal Commission, the Board needs to clarify that; (1) the County has jurisdiction and responsibility to review the Project Plans and approve the Design Approval for the recently Revised Project Plans which now include an 18' 5.5" tall privacy wall negotiated between the owner and the appellant and, (2) the Coastal Commission has jurisdiction over the coastal development permits. The proposed privacy wall complies with Low Density Residential Zoning requirements within the Coastal Zone (LDR-CZ). In furtherance of a proposed Conditional Settlement Agreement discussed below, staff recommends that the Board of Supervisors rescind approval of the Combined Development Permit approved pursuant to Board of Supervisors Resolution No. 14-259, find the Project categorically exempt from CEQA, confirm its findings on the appeal and, approve a Design Approval of the Revised Project Plans for a new 1,938 square foot residential addition to a 3,808 square foot single family dwelling, which now include an attached 18' 5.5" tall privacy wall. The Notice of Appeal (Attachment C) is attached for reference purposes.

During the previous Board of Supervisors hearing held on September 9, 2014, issues related to tree removal/trimming, site visibility, and site setbacks were discussed. Public testimony was presented relative to these issues, during which time the staff, the applicant, and the appellant were afforded time to present any concerns. The primary issue discussed was the claim of unpermitted tree removal, resulting in an increase of visibility of the project from the neighbor's property. Staff confirmed that no un-permitted tree removal was observed between October 2013 and May 2014 (during site inspections). Visibility of the project remains as the primary basis of the appellant's contentions (Attachment C).

Since the appeal was decided by the Board of Supervisors on September 9, 2014, the appellant served the County with a Summons and Complaint and Petition for Writ of Mandamus in the matter of *Evergreen Financial Group v. County of Monterey and Monterey County Board of Supervisors* (Monterey Superior Court Case No. 129621) in October 2014. As part of a Conditional Settlement Agreement, the appellant and the applicant have agreed to the

construction of a 16 foot long, 18' 5.5" tall privacy wall attached to the addition. The proposed Settlement Agreement, if approved by the Board, will result in a dismissal with prejudice, of the action filed in Monterey County Superior Court Case No. 129621. In furtherance of the proposed Conditional Settlement Agreement, Staff is recommending approval of the Design Approval to include the new attached privacy wall as shown in the Revised Project Plans (See Attachment B).

Responses to appellant's original contentions are found within the proposed resolution presented to the Board (Attachment B).

### **CONSISTENCY WITH ZONING:**

The subject property is zoned LDR/1-HR-D (CZ) or Low Density Residential, 1 acre per unit, with Historic Resources and Design Control Overlay Districts. This zoning designation is designed for residential development, including the construction of accessory structures.

The County's action related to this project involves the approval and issuance of a Design Approval, which is required to comply with the "D" or Design Control Overlay. The materials proposed consist of cream/light-tan painted stucco walls, and large glass panel windows. Proposed colors and materials were selected to match the existing residence. The new attached wall is an extension of a tall wall of the addition, so the style and materials will match the addition. The California Coastal Commission has jurisdiction over the coastal development permits required for the project to proceed to construction.

The property includes a "HR" or Historic Resources zoning overlay. In general, applications within an "HR" zoning designation require referral to the Historic Resources Review Board (HRRB), except those applications solely involving archaeological resources [Monterey County Code (MCC) 20.54.040.A]. This particular property contains the "HR" designation due to its proximity to archaeological resources, not for reasons related to a historic structure or area of historic, architectural, or engineering significance. Therefore, the project was not reviewed by the HRRB.

The project includes the request for issuance of a Coastal Development Permit to allow development within 750 feet of a known archaeological resource. An archaeological reconnaissance report was prepared for the subject property, which did not identify potential impacts to cultural resources. The Coastal Commission would consider discretionary permits for this project.

The proposed residential addition/remodel complies with all applicable front, side, and rear setbacks. Additionally, the addition/remodel is proposed in a previously disturbed area of the parcel, where minimal grading and no tree removal is required. Staff did not identify any areas of concern or recommend any changes to the project design or setting.

The proposed project complies with all applicable setbacks, and will not result in increased visibility from public viewing areas. The observed tree trimming did not result in more than 30% of the existing canopy of any individual tree, which is not a violation of county regulations. This trimming did make the project site more visible from the appellant's property; however, private views are not protected by Monterey County ordinances in this area.

The proposed addition/remodel was reviewed by responsible County departments and conditions of approval were added to the project where required. Specifically, the Environmental Health Bureau (EHB) recommends a condition of approval requiring the applicant to demonstrate that the existing septic system can be upgraded to adequately supply onsite wastewater treatment, prior to the

issuance of a construction permit. In the event that the septic system cannot be upgraded, the construction permit will not be issued and the proposed addition and remodel will not proceed.

The project is served potable water by California-American Water (Cal-Am) utilizing an existing service connection. The proposed addition/remodel involves the addition of a master bathroom. To ensure that no intensification of water would result from the project, if the Coastal Commission approves the project, a Monterey Peninsula Water Management District Release Form will need to be approved prior to issuance of any construction permit. Use of the MPWMD form requires the applicant to demonstrate that no additional water will be used for the project by showing the efficiency and number of existing and proposed fixtures; this will ensure that the project involves a negligible or no expansion of the existing water use.

**ENVIRONMENTAL REVIEW/CEQA:**

California Environmental Quality Act (CEQA) Guidelines Section 15301(e) categorically exempts the minor alteration of existing structures involving negligible or no expansion of use beyond that existing at the time of the County's determination including additions to existing structures that will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The project proposes to add 50.8% to the existing floor area, which is slightly above that listed by the exemption, but this still fits within this exemption because 1) the limits cited above are just by way of example listed in section 15301 and are not limited to those amounts, 2) the expansion is less than 2,500 square feet, and 3) it is an expansion of a garage and master bedroom that will not constitute an expansion of the use of the site. The addition of the master bedroom and garage are in keeping with all regulations for a home on this parcel related to height, area and setback requirements, and the added floor area does not adversely affect any sensitive resources or require a significant consumption of resources. No adverse environmental effects were identified during staff review of the development application during site visits on October 22, 2013 and May 18, 2014.

**RECOMMENDATION:**

Staff recommends that the Board of Supervisors rescind the Combined Development Permit, approved pursuant to Board of Supervisors Resolution No. 14-259, find the project categorically exempt from CEQA, confirm its findings on the appeal, and approve the Design Approval for the Revised Project Plans (Attachment B). A draft resolution and ordinance are attached per this recommendation.

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