



## Monterey County

### Board Order

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Upon motion of Supervisor Armenta, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Held a Public hearing and adopted Resolution No. 14-259 to:

- a. Deny the appeal by Evergreen Financial Group from the Zoning Administrator's approval of a Combined Development Permit (Venkatesh/PLN130706) consisting of: 1) a Coastal Administrative Permit to allow a new 1,938 square foot addition to a 3,808 square foot single family dwelling; 2) a Coastal Development Permit to allow development within 750 feet of an archaeological resource; and 3) Design Approval; and
- b. Find the project Categorically Exempt per Section 15301(e) of the CEQA Guidelines; and
- c. Approve a Combined Development Permit (Venkatesh/PLN130706) consisting of: 1) a Coastal Administrative Permit to allow a new 1,938 square foot residential addition to a 3,808 square foot single family dwelling; 2) a Coastal Development Permit to allow development within 750 feet of an archaeological resource; and 3) Design Approval.  
(Combined Development Permit - PLN130706/Venkatesh, 173 Spindrift Road, Carmel, Carmel Land Use Plan)

PASSED AND ADOPTED on this 9th day of September 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on September 9, 2014.

Dated: September 11, 2014  
File Number: RES 14-084

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By

Deputy

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

**Resolution No.:14-259**

Resolution of the Monterey County Board of  
Supervisors to: )  
a. Deny the appeal by Evergreen Financial )  
Group from the Zoning Administrator's )  
decision approving the application by )  
Gopalkrishnan & Brenda Venkatesh for a )  
Combined Development Permit; and )  
b. Find the project Categorically Exempt per )  
Section 15301(e) of the CEQA Guidelines; )  
and )  
c. Approve a Combined Development Permit )  
consisting of: 1) a Coastal Administrative )  
Permit to allow a 1,938 square foot residential )  
addition to a 3,808 square foot single family )  
dwelling; 2) a Coastal Development Permit to )  
allow development within 750 feet of an )  
archaeological resource; and 3) Design )  
Approval. )  
(PLN130706/Venkatesh)..... )

The appeal by Evergreen Financial Group from the Zoning Administrator's approval of the Combined Development Permit (Gopalkrishnan & Brenda Venkatesh/PLN130706) came on for public hearing before the Monterey County Board of Supervisors on September 9, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

**FINDINGS**

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is an application by Gopalkrishnan & Brenda Venkatesh (PLN130706) for a Combined Development Permit consisting of: 1) a Coastal Administrative Permit 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 interior remodel to an existing residence; 2) a Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and 3) a Design Approval. The project is located at 173 Spindrift Road, Carmel.
- EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN130706.

2. **FINDING:** **CONSISTENCY / SITE SUITABILITY** - The proposed project, as conditioned, is consistent with the policies of the Local Coastal Program (LCP) and other County health, safety, and welfare ordinances related to land use and development. The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) No conflicts with the Carmel Area Land Use Plan and Local Coastal Program (LCP) were found to exist. The subject property is designated for the residential development and is zoned LDR/1-HR-D(CZ), or "Low Density Residential, 1 acre per unit, with a Historic Resources and Design Control Overlay in the Coastal Zone". The proposed project involves a residential addition and interior remodel, which is consistent with the land use designation. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - b) The 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.
  - c) 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.
  - d) 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. Therefore, granting of the Coastal Development Permit is warranted. A standard condition of approval requiring notification of RMA-Planning should any archeological or cultural resources be discovered during excavation activities has been applied (Condition 4).
  - e) The project has been reviewed for site suitability by the following departments and agencies: Resource Management Agency (RMA)-Planning, Carmel Highlands Fire Protection District, RMA-Public Works, RMA-Environmental Services; Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the reviewing departments and agencies have been incorporated as part of the Combined Development Permit.
  - f) The project planner conducted site inspections on October 22, 2013 and

May 18, 2014 to verify that the project on the subject parcel conforms to the plans listed above and to verify that the site is suitable for this use and concluded that it does conform.

- g) Based on the LUAC Procedures, adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application warranted referral to the Carmel Highlands Land Use Advisory Committee (LUAC) because the project had the potential to raise significant land use issues (aesthetics and neighborhood character). The LUAC reviewed the project on April 7, 2014, and recommended approval with requested conditions regarding outdoor lighting, landscape lighting, and stucco wall design, by a 5-0 vote (1 member absent). Standard conditions of approval for exterior lighting and landscaping have been included in the project to address concerns with outdoor and landscape lighting. LUAC minutes are attached as Exhibit D of the June 26, 2014 Zoning Administrator Staff Report.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN130706.

3. **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 the RMA - Planning, Carmel Highlands Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. 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 public facilities are available. 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, the Monterey County Water Resources Agency (MCWRA) has applied a standard condition of approval, requiring the verification of water use units (fixture count) in the form of a completed Monterey Peninsula Water Management District Release Form, prior to issuance of any construction permit (Condition 10). 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.

- c) The existing residence is served by an existing onsite wastewater treatment system (septic). Due to the proposed addition/remodel, the Environmental Health Bureau has conditioned the project to require an upgrade to the existing on-site wastewater system (Condition 8). The septic system upgrade is based on the number of bedrooms, not an increase in water usage.
- d) Staff conducted site inspections on October 22, 2013 and May 18, 2014 to verify that the site is suitable for this use and concluded that it is.
- e) See Finding 1: Project Description Evidence.

4. **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 Monterey County RMA - Planning and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted site inspections on October 22, 2013 and May 18, 2014 and researched County records to assess if any violation exists on the subject property and concluded that none exist. RMA investigated complaints of unpermitted tree removal and determined that the complaints were without merit. (See Finding 8.)
  - c) See Finding 1: Project Description Evidence.

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

- EVIDENCE:**
- a) 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 the expansion is less than 2,500 square feet, it is an expansion of a garage and master bedroom which will not constitute an expansion of the use of the site. The addition of the master bedroom and garage are in keeping with the size of 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.
  - b) There is no evidence that unusual circumstances exist that would cause it to have a significant effect on the environment. The proposed addition consists of construction in a previously disturbed (paved) area of the property, and does not involve the removal of any sensitive species (plant

or animal), removal of protected trees, or disturbance of resources of historical or archaeological significance.

- c) No potential adverse environmental effects were identified during staff review of the development application or during site visits on October 22, 2013 and May 18, 2014.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.
- e) See Finding 1: Project Description Evidence.

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) The subject property is described as an area where the Local Coastal Program requires public access (Figure 3 in the Carmel Land Use Plan). An existing access trail is directly adjacent to the subject property; this project will not impact the existing access trail.
- b) No additional access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130 of the Monterey County Coastal Implementation Plan can be demonstrated.

7. **FINDING:** **PROCEDURAL BACKGROUND** – The project has been processed in compliance with County regulations.

**EVIDENCE:**

- a) On March 18, 2014, Gopalkrishnan & Brenda Venkatesh filed an application with Monterey County RMA-Planning for a Combined Development Permit (PLN130706) to allow a 1,938 square foot residential addition to a 3,808 square foot single family dwelling.
- b) The Combined Development Permit (PLN130706) was deemed complete on May 16, 2014.
- c) The project was brought to public hearing before the Monterey County Zoning Administrator on June 26, 2014. On June 26, 2014 the Zoning Administrator found the project Categorically Exempt per Section 15301(e) of the CEQA Guidelines, and approved the Combined Development Permit application (ZA Resolution No. 14-022).
- d) An appeal from the Zoning Administrator's approval of the Combined Development Permit was timely filed by Evergreen Financial Group ("appellant"), signed by Melvin Kaplan, on July 11, 2014.
- e) The appeal was brought to public hearing before the Board of Supervisors on September 9, 2014. At least 10 days prior to the public hearing, notices of the public hearing before the Board of Supervisors were published in the *Monterey County Weekly* and were posted on and near the property and mailed to the property owners within 300 feet of the subject property as well as interested parties.
- f) Staff Report, minutes of the Zoning Administrator and Board of

Supervisors, information and documents in Planning file PLN130706.

**8. FINDING:**

**APPEAL AND APPELLANT CONTENTIONS**

The appellant requests that the Board of Supervisors grant the appeal and deny the Combined Development Permit application (PLN130706). The appeal alleges: there was a lack of fair or impartial hearing. The contentions are contained in the Notice of Appeal (**Exhibit C of the September 9, 2014 Board of Supervisors Staff Report**) and listed below with responses. The Board of Supervisors finds that there is no substantial evidence to support the appeal and makes the following findings regarding the appellant's contentions:

**Contention 1 – Lack of Fair or Impartial Hearing**

The appellant contends that the following are examples of the lack of a fair and impartial hearing:

- a) After Mr. Kaplan spoke, the Zoning Administrator called for a response from the architect, who made incorrect statements about the trees that were cut down on the project site. When Mr. Kaplan tried to further respond, he was advised that the discussion (public hearing) was closed.*

**Response:**

The appellant was afforded due process. The Zoning Administrator held a public hearing on the project on June 26, 2014. The Zoning Administrator received presentations from county staff and the project applicant, followed by testimony and presentations from the public during the hearing, and the appellant was provided the opportunity to present information to the Zoning Administrator and did so. Upon the close of the public hearing, staff responded to questions from the Zoning Administrator (related to information voiced by the appellant) after which the Zoning Administrator directed additional clarifying questions to the applicant's representative (Mr. Miller). Following these responses, the appellant (Evergreen Financial Group – Mr. Kaplan) tried to address the Zoning Administrator again; the Zoning Administrator subsequently informed the appellant that the public hearing had been closed to additional public comment. The Zoning Administrator then publicly discussed the facts and merits of all evidence received. Subsequently the Zoning Administrator approved the Combined Development Permit. The steps of staff presentation, application presentation, and public testimony,

followed by the applicant and staff responding to points raised by the public is the standard format for conducting a public hearing and was followed in this case. This process insures a fair and impartial hearing and was followed in this situation. Additionally, the Board of Supervisors' hearing on the appeal is de novo, and appellant has the opportunity to testify to the Board of Supervisors at the Board's hearing.

- b) *The appellant contends that information contained in Evidence 2(d) and Evidence 3 relative to aesthetics and neighborhood character, and health and safety is lacking; claiming that excessive tree removal has changed the aesthetics and neighborhood character of the site, and affected their peace and comfort, and negatively affected their property value.*

**Response:**

The appellant is unhappy with tree trimming which was purported to have occurred within the boundaries of project site (173 Spindrift Road), claiming that trees (20-30) were removed without the appropriate permits. Prior to the hearing, two separate code enforcement complaints relative to reported tree removal were received by the Code Enforcement division of RMA-Building Services. Subsequent to these reports, Code Enforcement and Planning Department personnel separately visited the site to investigate the complaints. No unpermitted tree removal was observed or documented during any of these investigative site visits. Evidence of tree trimming was observed; however the tree trimming was not in violation of any County policies or regulations, and the trimming did not result in the decline of tree health; therefore both cases were closed "without merit." Evidence and testimony on this issue was publicly presented during the Zoning Administrator hearing and discussed, both prior to and after public testimony. County staff confirmed that no unpermitted tree removal had taken place, showing various photographs from site visits.

Based on observations made during project review and site visits to investigate the code enforcement complaints, along with the fact that no violations existed on the property, staff recommended approval of the project, with finding related to Consistency/Site Suitability (Finding 2) and Health/Safety (Finding 3). Additionally, the appellant was afforded due



process during the Zoning Administrator hearing (see Response to Contention 1(a) above).

Staff analyzed the project proposal for compliance with applicable zoning regulations (setbacks, coverage, and height) and applicable Land Use Plan policies (Carmel Highlands). No inconsistencies with plans, policies, and regulations were found to exist.

### **DECISION**

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Deny the appeal by Evergreen Financial Group from the Zoning Administrator's decision approving the application by Gopalkrishnan & Brenda Venkatesh for a Combined Development Permit; and
- b. Find the project Categorically Exempt per Section 15301(e) of the CEQA Guidelines; and
- c. Approve the application by Gopalkrishnan & Brenda Venkatesh for a Combined Development Permit (PLN130706) consisting of: 1) a Coastal Administrative Permit to allow a 1,938 square foot residential addition to a 3,808 square foot single family dwelling; 2) a Coastal Development Permit to allow development within 750 feet of a positive archaeological resource; and 3) Design Approval, subject to the conditions of approval and in accordance with the project plans, both attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** upon motion of Supervisor Armenta, seconded by Supervisor Salinas and carried this 9th day of September 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on September 9, 2014.

Dated: September 11, 2014  
File Number: RES 14-084

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By



Deputy