

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> October 11, 2007. Time: P.M	<b>Agenda Item No.:</b>
<b>Project Description:</b> Variance to Monterey County Code Title 16 Section 16.16.050 (C), elevation requirements for new construction and substantial improvements, for PLN030646. The variance will allow the applicant to substantially improve 23 legal non-conforming historic structures located within the 100-year Floodplain of the Carmel River without elevating the structures. As historic structures, a variance may be issued in accordance with Title 16 Section 16.16.060 (B). There is no change in the approved design, appearance, or locations of any structures proposed under this permit.	
<b>Project Location:</b> 26600 Oliver Road Carmel	<b>APN: 009-563-005-000</b>
<b>Planning File Number:</b> PLN070420	<b>Name:</b> IWF Carmel Investors LP DBA Carmel River Inn (Property Owner) Paul Davis Partnership (Agent)
<b>Plan Area:</b> Carmel Land Use Plan	<b>Flagged and staked:</b> No (N/A)
<b>Zoning Designation:</b> : VSC-D (CZ) & RC-D (CZ) [Visitor Serving Commercial-with a Design Control Overlay (in the Coastal Zone)] and [Resource Conservation- with a Design Control Overlay (in the Coastal Zone)]	
<b>CEQA Action:</b> The project is consistent with the Mitigated Negative Declaration prepared for the project PLN030646 adopted by the Planning Commission 02/22/2006	
<b>Department:</b> RMA - Planning Department, Water Resources Agency	

### RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Variance based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**).

### PROJECT OVERVIEW:

On February 22, 2006, the Monterey County Planning Commission approved a Combined Development Permit (PLN030646 Carmel River Investors) consisting of a General Development Plan for the Carmel River Inn to increase the number of guest units from 43 existing to 69 proposed and to create an historic district; A Coastal Administrative Permit and Design Approval for the remodel of 23 existing cottage units, demolition of one cottage, remodel of the main inn to reduce the number of units from 19 existing to 6, construction of 5 new two-story structures each consisting of 8 guest units on the second floor with parking below, the conversion of an existing maintenance building into an employee unit, the abandonment of a portion of Oliver Road, Grading (2,550 Cubic Yards Cut/ 2,550 Cubic Yards Fill); A Coastal Development Permit for the removal of 5 native trees; and a Coastal Development permit for development within 100 feet of environmentally sensitive habitat.

After reviewing PLN 030646, the Water Resources Agency recommended a substantial improvement determination for each remodeled cottage unit. If the costs of the proposed remodeling work equaled or exceeded 50 percent of the market value of the structure, the Agency required the existing structure and addition to be elevated in accordance with Chapter 16.16.050 (C) of the Monterey County Code.

Subsequently, rot and mold were found during the construction process and additional structural and other building members were required to be replaced beyond that which was anticipated. The costs associated with the additional work will result in a substantial improvement; therefore,

the cottages must be elevated unless the applicant obtains a variance to Monterey County Code section 16.16.050C(1).

In accordance with Monterey County Code Title 16, Chapter 16.16.060 (B), variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard for the procedures set forth in the remainder of this section. As defined in Title 16, a historic structure is a building individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

The 23 existing cottage units have been designated as a historic district on the Monterey County Register of Historic Resources which is a program that has achieved Certified Local Government status as determined by the Secretary of the Interior. The cottage units will be protected to the maximum extent possible using appropriate flood protection techniques.

**OTHER AGENCY INVOLVEMENT:**

- ✓ Water Resources Agency
- ✓ Public Works
- ✓ Environmental Health
- ✓ Carmel Highlands Fire Protection District

The above checked agencies and departments have reviewed this project. Conditions recommended by Water Resources Agency have been incorporated into the condition compliance reporting plan (**Exhibit D**).

On September 17, 2007 the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) recommended approval of the project by a 5-0 vote

Note: The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

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Craig Spencer (RMA-Planning)  
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August 8, 2007

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Tom Moss (Water Resources Agency)  
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cc: Zoning Administrator; Carmel Highlands Fire Protection District; Parks Department; Environmental Health Division; Water Resources Agency; (Other agencies that may have reviewed the application); Carl Holm, Planning Services Manager; Craig Spencer, Planner; Carol Allen, IWF Carmel Investors LP, Applicants; Paul Davis, Architect; Planning File PLN070420.

Attachments: Exhibit A      Project Data Sheet  
                  Exhibit B      Recommended Findings and Evidence  
                  Exhibit C      Recommended Conditions of Approval  
                  Exhibit D      Site Plan, Elevations, Floor Plans

This report was reviewed by Jeff Main, Assistant Director

## **EXHIBIT C**

### **RECOMMENDED FINDINGS AND EVIDENCE**

- 1. FINDING: CONSISTENCY 16.16.060(B)** – The project conforms to the policies, requirements, and standards of Monterey County Code Title 16 Chapter 16.16.060 B (Variance Procedures) which establishes conditions under which a Variance to Title 16 can be granted.

**EVIDENCE:** (a) Monterey County Code Title 16 Chapter 16.16.060B1 allows a Variance to be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.

(b) On July 5, 2007 The Monterey County Historic Resource Review Board unanimously recommended the inclusion of the Carmel River Inn Historic District (The 23 existing cottages) to the Monterey County Register of Historic Resources.

(c) On July 24, 2007 the Monterey County Board of Supervisors approved the adoption of the Carmel River Inn Historic District to the Monterey County Register of Historic Resources.

(d) The application, project plans, and related support materials found in Project File Numbers PLN030646 (original Combined Development and General Development Permit) and PLN070420 (new Variance).
  
- 2. FINDING: CEQA (No Project):** - The issuance of the Variance pursuant to Title 16 Chapter 16.16.060 does not meet the definition of a project under CEQA.

**EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 21065 defines the term “project” for the purposes of applying CEQA.

(b) Monterey County Code Title 16 Chapter 16.16.060 B (Variance Procedures) establishes conditions under which a Variance can be granted, no findings are required to be made other than to say the proposal meets those conditions.

(c) This Variance does not include a permit for development. The development was permitted under the previous development permit (PLN030646) and related Mitigated Negative Declaration.

(c) See preceding and following findings and supporting evidence.
  
- 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 has been reviewed for health and safety regulations by the following departments and agencies: RMA - Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and the Water Resources Agency. There has been no indication from these departments/agencies that granting of the variance would be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, or to the general welfare of the County. Conditions recommended have been incorporated.

(b) Preceding findings and supporting evidence.

4. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.  
**EVIDENCE:** Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance (Title 20).

<b>EXHIBIT D</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> <u>Carmel River Inn</u> <b>File No:</b> PLN070420 <b>Approved by:</b> Zoning Administrator	<b>APNs:</b> <u>009-563-005-000</u> <b>Date:</b> October 11, 2007
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*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Variance (PLN070420) allows the rehabilitation/reconstruction of 23 historic cottages units, consistent with the previously approved development permit PLN030646, exceeding 50% of the total assessed value within the Carmel River 100 year flood plain. The property is located at 26600 Oliver Road Carmel (Assessor's Parcel Number 009-563-005-000), Carmel Land Use Plan. This permit was approved 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 the RMA - Planning Department. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. <b>(RMA - Planning Department)</b>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

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2.		<p><b>PD002 - NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: "A permit (PLN070420) was approved by the Zoning Administrator for Assessor's Parcel Number 009-563-005-000 on October 11, 2007. The permit was granted subject to 6 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. <b>(RMA - Planning Department)</b></p>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	

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3.		<p><b>PD004 - INDEMNIFICATION AGREEMENT</b></p> <p>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. <b>(RMA - Planning Department)</b></p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	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	

CARMEL HIGHLANDS FIRE PROTECTION DISTRICT

4.	<p><b>FIRE021 - FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</b></p> <p>The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection.</p> <p><b><i>Responsible Land Use Department: Carmel Highlands Fire District.</i></b></p>	Applicant shall enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of building permit.	
		Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
		Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	



## WATER RESOURCES AGENCY

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		<p><b>FLOODPROOFING PLAN</b></p> <p>The cottage units shall be protected to the maximum extent possible using floodproofing materials and vents where appropriate. The applicant shall provide the Water Resources Agency a floodproofing plan, for each unit, prepared by a registered civil engineer or licensed architect showing the internal and external grade elevations, the location and dimensions of all vents, and the proposed floodproofing materials. Improvements shall be constructed in accordance with plans approved by the Water Resources Agency. <b>(Water Resources Agency)</b></p>	Submit a floodproofing plan to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	WRA
6.		<p><b>DEED NOTIFICATION</b></p> <p>The owner shall provide the Water Resources Agency a recorded Deed Notification stating: “The twenty-three historic cottages were permitted to be substantially improved with their lowest floor elevation below the base flood elevation. Flood insurance premiums may be commensurate with the increased risk resulting from the reduced lowest floor elevation.” <b>(Water Resources Agency)</b></p>	Submit a recorded deed notification to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	WRA